

BOARD OF SUPERVISORS

MINUTES

November 23, 2004

Supervisors in Attendance:

Mr. Kelly E. Miller, Chairman
Mr. Edward B. Barber, Vice Chrm.
Mrs. Renny B. Humphrey
Mr. R. M. "Dickie" King, Jr.
Mr. Arthur S. Warren

Mr. Lane B. Ramsey
County Administrator

Staff in Attendance:

Colonel Carl R. Baker,
Police Department
Mr. Craig Bryant, Dir.,
Utilities
Ms. Jana Carter, Dir.,
Youth Planning and
Development
Ms. Marilyn Cole, Asst.
County Administrator
Ms. Rebecca Dickson, Dir.,
Budget and Management
Mr. James Dunn, Dir.,
Economic Development
Mr. William Dupler,
Building Official
Mr. Robert Eanes, Asst. to
the County Administrator
Ms. Lisa Elko, CMC
Clerk
Ms. Kelly Fried, Quality
Improvement Mgr., Mental
Health/Mental Retard./
Substance Abuse Services
Mr. Michael Golden, Dir.,
Parks and Recreation
Mr. Bradford S. Hammer,
Deputy Co. Admin.,
Human Services
Mr. John W. Harmon,
Right-of-Way Manager
Mr. Russell Harris, Mgr.
of Community Development
Services
Mr. Rob Key, Asst. Dir.,
General Services
Ms. Kathryn Kitchen, Asst.
Supt. of Schools for
Business and Finance
Mr. Donald Kappel, Dir.,
Public Affairs
Mr. Louis Lassiter, Dir.,
Internal Audit
Ms. Mary Lou Lyle, Dir.,
Accounting
Acting Chief Paul Mauger,
Fire and EMS Dept.
Mr. R. John McCracken,
Dir., Transportation
Mr. Richard M. McElfish,
Dir., Env. Engineering
Mr. Steven L. Micas,
County Attorney

Mr. James J. L. Stegmaier,
Deputy Co. Admin.,
Management Services
Mr. M. D. Stith, Jr.,
Deputy Co. Admin.,
Community Development
Mr. Kirkland A. Turner,
Director of Planning
Mr. Scott Zaremba, Asst.
Dir., Human Resource
Management

Mr. Miller called the regularly scheduled meeting to order at 4:05 p.m.

1. APPROVAL OF MINUTES FOR NOVEMBER 10, 2004

On motion of Mrs. Humphrey, seconded by Mr. Barber, the Board approved the minutes of November 10, 2004, as submitted.

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

2. COUNTY ADMINISTRATOR'S COMMENTS

2.A. CHESTERFIELD BUSINESS COUNCIL'S GOVERNMENT RELATIONS COMMITTEE PRESENTATION

Mr. Cliff Bickford, Chairman of the Chesterfield Business Council's (CBC) Government Relations Committee, reviewed county initiatives during 2004 that were supported by the CBC, including refinement of the BPOL tax; purchase of Cloverleaf Mall; an overwhelmingly successful bond referendum; and opening of Route 288. He stated CBC initiatives for 2005 include support of public private transportation proposals and ongoing discussions regarding a transportation district; the rail initiative, which the CBC sees as a viable partial solution to future transportation needs; and an economic development partnership to devise a strategy to empower the business community with better knowledge and understanding about the county. He noted a crime initiative was announced last week at the Greater Richmond Chamber of Commerce meeting and stated Colonel Baker will attend the December CBC meeting to pursue that initiative. He stated a long-term initiative of the Business Council is to significantly advance support of early childhood development, indicating that the results of this initiative are obvious to both the business community and the county because data indicates that every dollar spent in early childhood development could potentially result in a long-term savings of six dollars in time expense.

2.B. RECOGNIZING THE BUDGET AND MANAGEMENT DEPARTMENT FOR RECEIVING THE DISTINGUISHED BUDGET PRESENTATION AWARD

Mr. Ramsey commended Ms. Dickson and staff of the Budget and Management Department upon being awarded the Distinguished Budget Presentation Award by the Government Finance Officers Association of the United States and Canada (GFOA) for the 21st consecutive year.

2.C. COMPREHENSIVE ANNUAL FINANCIAL REPORT PRESENTATION

Mr. Ramsey introduced Ms. Elizabeth Foster, engagement partner from KPMG, LLP.

Ms. Foster stated the FY2004 audit is officially complete and all opinions issued were unqualified. She further stated the audit revealed no significant findings and clean opinions were issued on the financial statements as well as the controls that were tested. She stated a full report was made to the Budget and Audit Committee earlier today.

Mr. Ramsey noted the audit report will be forwarded to the State Auditor of Public Accounts, as required by law.

3. BOARD COMMITTEE REPORTS

There were no Board committee reports at this time.

4. REQUESTS TO POSTPONE ACTION, ADDITIONS, OR CHANGES IN THE ORDER OF PRESENTATION

On motion of Mr. Warren, seconded by Mr. Barber, the Board added Item 8.D.1.c., Adoption of Resolution Requesting the Virginia Department of Transportation to Accept a Portion of Marina Drive Into the State Highway System; added Item 8.D.3.b., Conveyance of Easement to Virginia Electric and Power Company to Install Underground Cable Across County Property on Chester Road; and adopted the Agenda, as amended.

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

5. RESOLUTIONS AND SPECIAL RECOGNITIONS

o RECOGNIZING THE YMCA OF GREATER RICHMOND FOR OUTSTANDING COMMUNITY SERVICE

Ms. Chris Ruth, Assistant Director of Public Affairs introduced Mr. Barry Taylor, President and CEO of the YMCA of Greater Richmond, who was present to receive the resolution.

On motion of the Board, the following resolution was adopted:

WHEREAS, the YMCA was chartered in 1854 and has served continuously for 150 years; and

WHEREAS, the Manchester YMCA was founded in 1967; the Midlothian YMCA in 1995 and the Chester YMCA in 1997; and

WHEREAS, the YMCA provides quality services for individuals and families in a wholesome, safe, caring and nurturing environment; and

WHEREAS, the mission of the YMCA is to put Christian principles into practice through programs that build healthy spirits, minds and bodies; and

WHEREAS, the YMCA of Greater Richmond is one of the largest non-profit charitable providers of human services in Greater Richmond, and in Petersburg, Chesterfield, Goochland, Hanover, Henrico and Powhatan counties, serving some 130,000 people each year with programs that build strong children, strong families and strong communities; and

WHEREAS, through the generosity of YMCA friends, the YMCA of Greater Richmond provides more than \$4.4 million each year in financial assistance to ensure that nearly 18,000 people from all parts of the community are able to participate in YMCA programs and services; and

WHEREAS, through 25,000 swim lessons taught; 11,000 young people involved in organized sports; 3,000 children starting school with the supplies they need and 2,500 children participating in YMCA child care each day, the YMCA is fulfilling its mission.

NOW, THEREFORE, BE IT RESOLVED, that the Chesterfield County Board of Supervisors, this 23rd day of November 2004, publicly recognizes the outstanding community service provided by the YMCA of Greater Richmond; expresses, on behalf of all Chesterfield County residents, gratitude for the wide variety of services and programs offered by the YMCA; and proclaims Monday, November 29, 2004 through Monday, December 6, 2004, as "YMCA Week" in Chesterfield County, Virginia.

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

Mr. Miller presented the executed resolution to Mr. Taylor, expressed appreciation for the many services offered by the YMCA, and congratulated the organization on its 150th anniversary.

Mr. Taylor expressed appreciation to the Board for the recognition and for the strong support provided by the county to the YMCA.

6. WORK SESSIONS

There were no work sessions at this time.

7. DEFERRED ITEMS

7.A. AUTHORIZE THE CHESTERFIELD COUNTY HEALTH COMMISSION TO MAKE AN APPLICATION FOR A REZONING AND CONDITIONAL USE TO PERMIT CONSTRUCTION OF ADDITIONAL LIVING UNITS AT LUCY CORR VILLAGE ON PARCELS OWNED BY THE COUNTY

Mr. Hammer stated that, since the November 10, 2004 meeting, this request has been amended to delete the parcel bounded by Government Center Parkway and Courthouse Road Extended and move the proposed development further into the area adjacent to the nursing home.

On motion of Mr. King, seconded by Mr. Barber, the Board authorized the Chesterfield County Health Center Commission to make an application for rezoning and conditional use to

permit construction of a convalescence center and detached and attached residential units on parcels owned by the county (Tax ID Nos. 769665990300000, 773665252300000 and 771665335400000). (It is noted approval of this agenda item does not obligate the Board of Supervisors to approve the requested rezoning or to transfer title of the county parcels.)

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

7.B. STREETLIGHT INSTALLATION COST APPROVALS

On motion of Mr. King, seconded by Mr. Warren, the Board approved the following streetlight installation costs:

Bermuda District

In the Amherst Subdivision:

- o Amherst Oak Lane, vicinity of 16706
Cost to install streetlight: \$791.18
- o Amherst Ridge Way, vicinity of 2900
Cost to install streetlight: \$760.29

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

8. NEW BUSINESS

8.A. FY2004 RESULTS OF OPERATIONS AND SET PUBLIC HEARING TO APPROPRIATE FUNDS

Mr. Allan Carmody presented a summary of FY2004 Results of Operations. He stated FY2004 ended with a \$7.5 million surplus, after Hurricane Isabel adjustments. He further stated major revenues that exceeded the budgeted amounts include the property tax collections, local sales taxes, recordation taxes and consumer utility taxes. He reviewed staff's recommendations for both county and schools' use of the undesignated fund balance in FY2005 and FY2006 for non-recurring items.

On motion of Mr. King, seconded by Mrs. Humphrey, the Board appropriated \$408,037 in FY2005 for the following: \$60,000 for the 2004 referendum expenditures, \$257,800 for pay plan adjustments in three departments and \$90,237 for use in the Comprehensive Services fund to address a year-end shortfall for FY2004.

And, further, the Board designated \$2,163,220 in surplus revenue and \$226,540 in unspent appropriations, totaling \$2,389,760 for non-recurring items for use in FY2006.

And, further, the Board set the date of December 15, 2004 at 7:00 p.m. for a public hearing to consider the appropriation of \$3,077,862 in FY2005 for the following: 1) \$48,589 to the School Fund to address a FY2004 year-end shortfall in the Comprehensive Services fund; and 2) \$3,029,273 for non-recurring items that will be ordered in FY2005 for use in the

2005-2006 school year. (It is noted funding is comprised of \$23,603 in surplus property tax revenue (after contribution to fund balance); \$1,247,157 in surplus state sales tax revenue; and \$1,807,102 in unspent appropriations (including tax relief), totaling \$3,077,862.)

Ayes: Miller, Barber, Humphrey, King and Warren.
Nays: None.

8.B. APPOINTMENTS

On motion of Mrs. Humphrey, seconded by Mr. King, the Board suspended its rules at this time to allow for simultaneous nomination/appointment of a member to serve on the Youth Services Citizen Board.

Ayes: Miller, Barber, Humphrey, King and Warren.
Nays: None.

o YOUTH SERVICES CITIZEN BOARD

On motion of Mrs. Humphrey, seconded by Mr. King, the Board simultaneously nominated/appointed Mr. Donnell McLean, Sr., adult representative of the Matoaca District, to serve on the Youth Services Citizen Board, whose term is effective immediately and expires June 30, 2007.

Ayes: Miller, Barber, Humphrey, King and Warren.
Nays: None.

8.C. STREETLIGHT INSTALLATION COST APPROVALS

On motion of Mr. Barber, seconded by Mr. King, the Board approved the following streetlight installation costs:

Bermuda District

In the Rayon Park Subdivision:

- o Senate Street, vicinity of 7800
Cost to install streetlight: \$484.58
- o Botone Avenue and Senate Street
Cost to install streetlight: \$491.39
- o Congress Road and Senate Street
Cost to install streetlight: \$484.58
- o Congress Road, vicinity of 2712
Cost to install streetlight: \$484.58

Clover Hill District

In the Clarendon Subdivision:

- o Hollyglen Court, in the cul-de-sac
Cost to install streetlight: \$2,167.83

In the Muirfield Green Subdivision

- o Muirfield Green Drive and Nuttree Woods Drive
Additional cost to install streetlight: \$2,094.61

Dale District

In the Creek Meadow Subdivision:

- o Clearview Drive, in the cul-de-sac
Cost to install streetlight: \$433.30

Matoaca District

- o River Road, vicinity of 8414
Cost to install streetlight: \$400.48

Midlothian District

At the entrance to the Edgehill Subdivision:

- o Iron Mill Road and Old Bon Air Road
Cost to install streetlight: \$585.17

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

8.D. CONSENT ITEMS

8.D.1. ADOPTION OF RESOLUTIONS

**8.D.1.a. RECOGNIZING SERGEANT NATHAN NECOLETTOS FOR HIS
CONTRIBUTION TO THE WAR AGAINST GLOBAL TERRORISM**

On motion of Mr. Barber, seconded by Mr. King, the Board adopted the following resolution:

WHEREAS, on September 11, 2001, the United States was stunned when terrorists hijacked airplanes and attacked the World Trade Center and the Pentagon, killing and injuring thousands of people; and

WHEREAS, as a result of these attacks, the United States military entered into a war against global terrorism; and

WHEREAS, this military response has included "Operation Noble Eagle," involving homeland defense and civil support missions; "Operation Enduring Freedom," formerly known as "Operation Infinite Justice," to destroy the terrorist training camps and infrastructure within Afghanistan, the capture of al Qaeda leaders, and the cessation of terrorist activities in Afghanistan; "Operation Vigilant Resolve," to isolate and root out the terrorist forces responsible for repeated attacks on coalition forces in Fallujah, Iraq; and "Operation Iraqi Freedom," to free the people of Iraq from years of tyranny under the Iraqi dictator Saddam Hussein, who also sponsored terrorism; and

WHEREAS, each of these operations was conducted to make the United States, and the world, a safer place; and

WHEREAS, among the hundreds of thousands of military personnel mobilized for this war effort were scores of Chesterfield County residents and employees who serve in the reserve components of the various military services; and

WHEREAS, Sergeant Nathan Necolettos, Army Reserve, is one of the courageous Americans who answered the call to duty unflinchingly and honorably; and

WHEREAS, this Board of Supervisors supports the President and our troops, and commends the reserve military personnel who served in these military operations for their courageous service and sacrifice; and

WHEREAS, the families of these military men and women also bear a great sacrifice and uncertainty in the absence of their loved ones serving in far-off lands; and

WHEREAS, it is appropriate to recognize the courage and sacrifice of our reservists and their families during this difficult time.

NOW, THEREFORE BE IT RESOLVED, that the Chesterfield County Board of Supervisors, this 23rd day of November 2004, recognizes the sacrifice and courage of Sergeant Nathan Necolettos, and expresses its gratitude to him for making the world a safer place for freedom-loving people everywhere.

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

8.D.1.b. CONFIRMING PROCEEDINGS OF THE CHESTERFIELD COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY FOR ISSUANCE OF INDUSTRIAL REVENUE BONDS NOT TO EXCEED \$2,000,000 TO ASSIST B AND B PRINTING COMPANY, INCORPORATED, IN FINANCING THE ACQUISITION AND INSTALLATION OF A PRINTING PRESS AND RELATED PRODUCTION EQUIPMENT

On motion of Mr. Barber, seconded by Mr. King, the Board adopted the following resolution:

WHEREAS, the Industrial Development Authority of the County of Chesterfield (the "Authority") has considered the application of B&B Printing Co., Inc., a Virginia corporation (the "Company"), for the issuance of the Authority's industrial development revenue bonds in an amount not to exceed \$2,000,000 (the "Bonds") to assist in financing the acquisition and installation of a printing press and related production equipment (the "Project"), in the Company's commercial printing facility located at 521 Research Road in Chesterfield County, Virginia (the "County"), and to pay certain costs of issuance of the bonds, and has held a public hearing thereon on October 28, 2004; and

WHEREAS, the Authority has requested the Board to approve the issuance of the Bonds to comply with Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Tax Code"), and Section 15.2-4906 of the Code of Virginia (1950), as amended (the "Virginia Code"); and

WHEREAS, a copy of the Authority's resolution agreeing preliminarily to assist the Company with the financing of the

Project, upon terms to be agreed upon by the Authority and the Company as expressed in such resolution, a record of the public hearing at which such resolution was adopted, reaffirmed and ratified in its entirety, a copy of the resolution adopted at such public hearing and a "fiscal impact statement" with respect to the Project have been filed with the Board.

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF CHESTERFIELD COUNTY, VIRGINIA:

1. The Board of Supervisors of Chesterfield County, Virginia, approves the issuance of the Bonds by the Industrial Development Authority of the County of Chesterfield for the benefit of the Company, to the extent required by the Tax Code and the Virginia Code, to permit the Authority to assist in the financing of the Project.

2. The approval of the issuance of the Bonds, as required by the Tax Code and the Virginia Code, does not constitute an endorsement of the Bonds or the creditworthiness of the Company; and, as required by Section 15.2-4909 of the Virginia Code, the Bonds shall provide that neither the County nor the Authority shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from the revenues and moneys pledged therefor, and neither the faith or credit nor the taxing power of the Commonwealth, the County or the Authority shall be pledged thereto.

3. This resolution shall take effect immediately upon its adoption.

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

8.D.1.c. REQUESTING VIRGINIA DEPARTMENT OF TRANSPORTATION TO ACCEPT A PORTION OF MARINA DRIVE INTO THE STATE HIGHWAY SYSTEM

On motion of Mr. Barber, seconded by Mr. King, the Board adopted the following resolution:

WHEREAS, the street described below is shown on the plat recorded in the Clerk's Office of the Circuit Court of Chesterfield County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the street meets the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE BE IT RESOLVED, that this Board requests the Virginia Department of Transportation to add the street described below to the secondary system of highways, pursuant to Section 33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

Change to Secondary System of State Highways:

Basis for Change: Addition, new subdivision street

Statutory Reference: §33.1-229

Project: Marina Drive

From: Existing intersection of Route 1/301, Jefferson Davis Highway and Marina Drive, east then north

TO: Terminus, a distance of 0.25 miles

Right of Way was filed on March 19, 1964, with the Office of Clerk to Circuit Court in Pg.13, Pg. 87; a width of 66 feet.

AND, BE IF FURTHER RESOLVED, that this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

AND, BE IT FURTHER RESOLVED, that a certified copy of this Resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

8.D.2. SET DATES FOR PUBLIC HEARINGS

8.D.2.a. TO CONSIDER THE RECEIPT AND APPROPRIATION OF GRANT FUNDS FROM THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY TO PURCHASE TERRORISM RELATED EQUIPMENT FOR PUBLIC SAFETY PERSONNEL

On motion of Mr. Barber, seconded by Mr. King, the Board set the date of December 15, 2004 at 7:00 p.m. for a public hearing for the Board to consider the receipt and appropriation of \$839,962.12 in noncompetitive grant funds from the United States Department of Homeland Security, State Homeland Security Grant Program.

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

8.D.2.b. TO CONSIDER THE APPROPRIATION OF FUNDS FOR THE HAPPY HILL ROAD IMPROVEMENT PROJECT

On motion of Mr. Barber, seconded by Mr. King, the Board set the date of December 15, 2004 at 7:00 p.m. for a public hearing for the Board to consider appropriation of \$548,056 (\$502,700 in cash proffers and \$45,356 in interest earnings) from traffic shed 19 for improvements to Happy Hill Road between Harrowgate Road and Longmeadow Boulevard.

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

8.D.2.c. TO CONSIDER THE APPROPRIATION OF FUNDS FOR THE CENTRALIA ROAD IMPROVEMENT PROJECT

On motion of Mr. Barber, seconded by Mr. King, the Board set the date of December 15, 2004 at 7:00 p.m. for a public hearing for the Board to consider appropriation of \$1,527,466 in cash proffers from traffic shed 13 for improvements to Centralia Road between Salem Church Road and Chalkley Road.

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

**8.D.2.d. TO CONSIDER AMENDING THE BACKGROUND CHECK POLICY
FOR COACHES OF CO-SPONSORED YOUTH ATHLETIC LEAGUES**

On motion of Mr. Barber, seconded by Mr. King, the Board set the date of December 15, 2004 at 7:00 p.m. for a public hearing for the Board to consider amending the background check policy for coaches of co-sponsored youth athletic leagues.

Ayes: Miller, Barber, Humphrey, King and Warren.
Nays: None.

8.D.3. CONVEYANCE OF EASEMENTS

**8.D.3.a. TO VERIZON VIRGINIA INCORPORATED TO INSTALL
UNDERGROUND CABLE ACROSS COUNTY PROPERTY TO SERVE
FIRE STATION NUMBER 20 ON COURTHOUSE ROAD**

On motion of Mr. Barber, seconded by Mr. King, the Board authorized the Chairman of the Board of Supervisors and the County Administrator to execute an easement agreement with Verizon Virginia Incorporated to install underground cable across county property to serve Fire Station Number 20 on Courthouse Road. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Miller, Barber, Humphrey, King and Warren.
Nays: None.

**8.D.3.b. TO VIRGINIA ELECTRIC AND POWER COMPANY TO INSTALL
UNDERGROUND CABLE ACROSS COUNTY PROPERTY ON CHESTER
ROAD**

On motion of Mr. Barber, seconded by Mr. King, the Board authorized the Chairman of the Board of Supervisors and the County Administrator to execute an easement agreement with Virginia Electric and Power Company to install underground cable across county property on Chester Road. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Miller, Barber, Humphrey, King and Warren.
Nays: None.

8.D.4. ACCEPTANCE OF PARCELS OF LAND

**8.D.4.a. ALONG THE EAST RIGHT OF WAY LINE OF GENITO PLACE
FROM JMS INVESTMENTS, LLC**

On motion of Mr. Barber, seconded by Mr. King, the Board accepted the conveyance of a parcel of land containing 0.032 acres along the east right of way line of Genito Place (State Route 991) from JMS Investments, LLC, and authorized the County Administrator to execute the deed. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Miller, Barber, Humphrey, King and Warren.
Nays: None.

**8.D.4.b. ALONG THE EAST RIGHT OF WAY LINE OF GENITO PLACE
FROM J. MARK SOWERS**

On motion of Mr. Barber, seconded by Mr. King, the Board accepted the conveyance of a parcel of land containing 0.210 acres along the east right of way line of Genito Place (State Route 991) from J. Mark Sowers, and authorized the County Administrator to execute the deed. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Miller, Barber, Humphrey, King and Warren.
Nays: None.

**8.D.4.c. ALONG THE SOUTH RIGHT OF WAY LINE OF BAILEY BRIDGE
ROAD FROM GLENN M. HILL**

On motion of Mr. Barber, seconded by Mr. King, the Board accepted the conveyance of a parcel of land containing 0.647 acres along the south right of way line of Bailey Bridge Road (State Route 654) from Glenn M. Hill, and authorized the County Administrator to execute the deed. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Miller, Barber, Humphrey, King and Warren.
Nays: None.

**8.D.5. REQUEST FOR PERMISSION FROM JOHN D. NORRIS TO INSTALL
A PRIVATE WATER SERVICE WITHIN A PRIVATE EASEMENT TO
SERVE PROPERTY ON MIDLOTHIAN TURNPIKE**

On motion of Mr. Barber, seconded by Mr. King, the Board approved a request from John D. Norris for permission to install a private water service within a private easement to serve property at 7509 Midlothian Turnpike, subject to the execution of a license agreement, and authorized the County Administrator to execute the water connection agreement. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Miller, Barber, Humphrey, King and Warren.
Nays: None.

**8.D.6. REQUEST TO QUITCLAIM A PORTION OF A SIXTEEN-FOOT
SEWER EASEMENT ACROSS THE PROPERTY OF R C AND D, LLC**

On motion of Mr. Barber, seconded by Mr. King, the Board authorized the Chairman of the Board of Supervisors and the County Administrator to execute a quitclaim deed to vacate a portion of a 16-foot sewer easement across the property of R C and D, LLC. (It is noted a copy of the plat is filed with the papers of this Board.)

Ayes: Miller, Barber, Humphrey, King and Warren.
Nays: None.

8.D.7. STATE ROAD ACCEPTANCE

On motion of Mr. Barber, seconded by Mr. King, the Board adopted the following resolution:

WHEREAS, the street described below is shown on plats recorded in the Clerk's Office of the Circuit Court of Chesterfield County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the street meets the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that this Board requests the Virginia Department of Transportation to add the street described below to the secondary system of state highways, pursuant to Section 33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

AND, BE IT FURTHER RESOLVED, that this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

AND, BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Type Change to the Secondary System of State Highways: Addition

Basis for Change: **Addition, New subdivision street**

Statutory Reference: **§33.1-229**

Project: **Ironbridge Boulevard Extension, Phase II**

● **Ironbridge Boulevard, State Route Number: 632**

From: 0.03 Mi. N of Arbor Landing Dr., (Rt. 4815)

To: 0.23 Mi. N of Arbor Landing Dr., (Rt. 4815), a distance of: 0.20 miles.

Right-of-way record was filed on 1/27/1995 with the Office Of Clerk To Circuit Court in Db. 2650; pg.

71, 79, 82, with a width of 85 Ft.

Right-of-way record was filed on 2/06/95 with the Office Of Clerk To Circuit Court in Db. 2653; pg.

320, with a width of 85 Ft.

And, further, the Board adopted the following resolution:

WHEREAS, the streets described below are shown on plats recorded in the Clerk's Office of the Circuit Court of Chesterfield County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that this Board requests the Virginia Department of Transportation to add the streets described below to the secondary system of state highways, pursuant to Section 33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

AND, BE IT FURTHER RESOLVED, that this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

AND, BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Type Change to the Secondary System of State Highways: **Addition**

Basis for Change: **Addition, New subdivision street**

Statutory Reference: **§33.1-229**

Project: **Chesdin Landing, Section 5**

- **Corapeake Place, State Route Number: 5775**

From: Chesdin Green Wy., (Rt. 4496)

To: Cul-de-sac, a distance of: 0.11 miles.

Right-of-way record was filed on 5/16/2001 with the Office Of Clerk To Circuit Court in Pb. 117; Pg. 72,
with a width of 50 Ft.

- **Corapeake Terrace, State Route Number: 5774**

From: Chesdin Green Wy., (Rt. 4496)

To: Cul-de-sac, a distance of: 0.68 miles.

Right-of-way record was filed on 5/16/2001 with the Office Of Clerk To Circuit Court in Pb. 117; Pg. 72,
with a width of 50 Ft.

Ayes: Miller, Barber, Humphrey, King and Warren.
Nays: None.

8.D.8. APPROPRIATION OF STATE CHAPTER 10 AND MEDICAID FUNDS FOR THE COMMUNITY SERVICES BOARD

On motion of Mr. Barber, seconded by Mr. King, the Board appropriated \$50,000 in State Chapter 10 funds; established one full time position; and appropriated \$130,600 in additional Medicaid State Plan Option revenue.

Ayes: Miller, Barber, Humphrey, King and Warren.
Nays: None.

8.D.9. APPROVAL OF CHANGE ORDER WITH CHN CONSTRUCTION COMPANY FOR EXPANSION OF ROCKWOOD NATURE CENTER; APPROPRIATION OF CASH PROFFERS FOR THE LOWES SOCCER FIELD PROJECT; AND TRANSFER OF FUNDS IN GENERAL FUND BUDGET FROM LOWES SOCCER FIELD TO THE ROCKWOOD NATURE CENTER PROJECT

On motion of Mr. Barber, seconded by Mr. King, the Board approved Change Order Number 2 to CHN Construction Company in the amount of \$33,726.67 for the Rockwood Nature Center Expansion Project; appropriated cash proffers in the amount of \$72,400 for Lowes Soccer Field; and transferred \$72,400 in General Fund Budget from the Lowes Soccer Field Project to the Rockwood Park Nature Center Project.

Ayes: Miller, Barber, Humphrey, King and Warren.
Nays: None.

9. HEARINGS OF CITIZENS ON UNSCHEDULED MATTERS OR CLAIMS

There were no hearings of citizens on unscheduled matters or claims at this time.

10. REPORTS

10.A. REPORT ON THE DEVELOPER WATER AND SEWER CONTRACTS

10.B. REPORT ON THE STATUS OF GENERAL FUND BALANCE, RESERVE FOR FUTURE CAPITAL PROJECTS, DISTRICT IMPROVEMENT FUNDS AND LEASE PURCHASES

On motion of Mrs. Humphrey, seconded by Mr. Barber, the Board accepted the following reports: a Report on Developer Water and Sewer Contracts; and a Status Report of the General Fund Balance, Reserve for Future Capital Projects, District Improvement Funds and Lease Purchases.

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

11. DINNER

On motion of Mr. Barber, seconded by Mr. King, the Board recessed to the Administration Building, Room 502, for dinner.

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

Reconvening:

12. INVOCATION

Reverend Steve Lalk, Senior Pastor of Bethlehem Baptist Church gave the invocation.

13. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

Members of Boy Scout Troop 897 led the Pledge of Allegiance to the flag of the United States of America.

14. RESOLUTIONS AND SPECIAL RECOGNITIONS

o RECOGNIZING THE SOUTH OF THE JAMES JAYCEES FOR OUTSTANDING COMMUNITY SERVICE

Mr. Kappel introduced Mr. Quenton Lee and Mrs. LaTika Lee, who were present to receive the resolution.

On motion of the Board, the following resolution was adopted:

WHEREAS, the Jaycees is an organization whose members are committed to community service; and

WHEREAS, the Jaycees were established in 1920 to provide young men with the opportunity to develop themselves through service to others; and

WHEREAS, the program later expanded to include women in those same development opportunities; and

WHEREAS, at the heart of the Jaycees is the concept of selfless volunteerism; and

WHEREAS, the Jaycees Creed includes the line, "Service to humanity is the best work of life"; and

WHEREAS, Chesterfield County is strengthened by the presence of the diverse membership of the South of the James Jaycees; and

WHEREAS, the South of the James Junior Chamber is a local chapter of Junior Chamber International, the U. S. Jaycees and the Virginia Jaycees; and

WHEREAS, the South of the James Junior Chamber was founded in March 2004 by Quenton and LaTika Lee; and

WHEREAS, in an environment that fosters true friendships, personal growth and career advancement, the South of the James Jaycees offer opportunities in business management, individual development, international and community involvement; and

WHEREAS, the South of the James Jaycees build tomorrow's leaders today; and

WHEREAS, the work of the South of the James Jaycees is beneficial to Chesterfield County, Virginia and the United States of America; and

NOW, THEREFORE, BE IT RESOLVED, that the Chesterfield County Board of Supervisors, this 23rd day of November 2004, publicly recognizes the outstanding contributions of the South of the James Jaycees, commends its founders and members on their civic-minded spirit, and extends to the South of the James Jaycees the gratitude of this Board of Supervisors, along with the gratitude of all Chesterfield County residents, for the outstanding volunteer efforts of the South of the James Jaycees, along with best wishes for continued success.

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

Mr. Barber presented the executed resolution to Mrs. Lee and expressed appreciation for the outstanding contributions of the South of the James Jaycees.

Mrs. Lee expressed appreciation to the Board for acknowledging the accomplishments of the South of the James Jaycees and stated the organization is building a better world around us. She thanked police officers for their assistance in closing the road for the Midlothian Day Festival Parade after an oversight had been made.

15. REQUESTS FOR MOBILE HOME PERMITS AND REZONING PLACED ON THE CONSENT AGENDA TO BE HEARD IN THE FOLLOWING ORDER:
- WITHDRAWALS/DEFERRALS - CASES WHERE THE APPLICANT ACCEPTS THE RECOMMENDATION AND THERE IS NO OPPOSITION
- CASES WHERE THE APPLICANT DOES NOT ACCEPT THE RECOMMENDATION AND/OR THERE IS PUBLIC OPPOSITION WILL BE HEARD AT SECTION 17

04SN0226

In Dale Magisterial District, WINDSOR PROPERTIES requests rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for community mixed use. This request lies on 7.6 acres at the western terminus of Mistyhill Road. Tax ID 775-679-Part of 6282 (Sheet 17).

Mr. Turner stated the applicant has withdrawn Case 04SN0226 from consideration.

Ms. Kristen Keatley, representing the applicant, requested withdrawal of Case 04SN0226.

On motion of Mr. Miller, seconded by Mr. King, the Board acknowledged withdrawal of Case 04SN0226.

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

04SN0302

In Matoaca Magisterial District, OMNIPOINT COMMUNICATIONS CAP OPERATIONS LLC requests Conditional Use and amendment of zoning district map to permit a communications tower in an Agricultural (A) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for neighborhood mixed use. This request lies on 2.5 acres and is known as 11010 Winterpock Road. Tax ID 720-655-5381 (Sheet 23).

Mr. Turner presented a summary of Case 04SN0302 and stated the Planning Commission and staff recommended approval subject to conditions.

Ms. Ambre Blatter, representing the applicant, stated the recommendation is acceptable.

Mr. Miller called for public comment.

No one came forward to speak to the request.

On motion of Mrs. Humphrey, seconded by Mr. Barber, the Board approved Case 04SN0302 subject to the following conditions:

1. The communications tower use shall be permitted only if it is incorporated into the structure of a water tank. Antennas shall be mounted on the safety rail of the

water tank. All cabling shall be housed in conduit or otherwise shielded from view. (P)

2. The developer shall be responsible for correcting any frequency problems which affect the Chesterfield County Communications System caused by this use. Such corrections shall be made immediately upon notification by the Chesterfield County Communications and Electronics staff. (GS)
3. The color and lighting system for the tower shall be as follows:
 - a. The communications equipment (antennas, mounting hardware, cabling, etc.) mounted on the outside of the water tank structure shall be the same or similar color as the water tank.
 - b. The tower shall not be lighted. (P)
4. Any building or mechanical equipment shall comply with Sections 19-595 and 19-570 (b) and (c) of the Zoning Ordinance relative to architectural treatment of building exteriors and screening of mechanical equipment. (P)

(NOTE: Section 19-570 (b) and (c) would require the screening of mechanical equipment located on the building or ground from adjacent properties and public rights of way. Screening would not be required for the tower or tower-mounted equipment.)

5. The tower shall not exceed a height of 160 feet. (P)
6. At such time that the tower ceases to be used for communications purposes for a period exceeding twelve (12) consecutive months, the owner/developer shall dismantle and remove the tower and all associated equipment from the property. (P)

Ayes: Miller, Barber, Humphrey, King and Warren.
Nays: None.

04SN0219

In Bermuda Magisterial District, IRONBRIDGE BOULEVARD LLC requests rezoning and amendment of zoning district map from Neighborhood Business (C-2) and Corporate Office (O-2) to Residential Townhouse (R-TH). Residential use of up to 8.0 units per acre is permitted in a Residential Townhouse (R-TH) District. The Comprehensive Plan suggests the property is appropriate for community mixed use. This request lies on 20 acres fronting approximately 1,100 feet on the north line of Ironbridge Parkway, also fronting approximately 1,300 feet on the west line of Ironbridge Boulevard and located in the northwest quadrant of the intersection of these roads. Tax ID 775-656-4862 (Sheet 25).

Mr. Turner presented a summary of Case 04SN0219 and stated the Planning Commission and staff recommended approval and acceptance of the proffered conditions.

Mr. Larry Horton, representing the applicant, stated the recommendation is acceptable.

Mr. Miller called for public comment.

No one came forward to speak to the request.

On motion of Mr. King, seconded by Mr. Warren, the Board approved Case 04SN0219 and accepted the following proffered conditions:

1. Public water and wastewater systems shall be used. (U)
2. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
3. The minimum gross floor area of each dwelling unit shall be 1,750 square feet. (BI & P)
4. All exposed portions of the foundation of each dwelling unit shall be faced with brick or stone veneer. Exposed piers supporting front porches shall be faced with brick or stone veneer. (BI & P)
5. The architectural appearance and materials shall be similar to the building elevations attached as Exhibits "A" and "B", dated 8/1/04, and employ the following materials: brick or stone veneer, composition siding, hardiplank or vinyl siding and 20 year asphalt shingles. Within each row of townhouse dwelling units, a minimum of 30% of the dwelling units shall have front elevations constructed of brick or stone, excluding windows, doors and architectural features. A minimum of fifty-one percent (51%) of the total units shall initially be constructed with a one (1) car garage. Further, for townhouse groups containing six (6) or more units, each unit shall initially be constructed with a one (1) car garage. (BI & P)
6. All dwelling units shall have paved driveways. The exact treatment shall be approved at the time of tentative subdivision plan review. (P)
7. Light poles shall have a maximum height of fifteen (15) feet. (P)
8. The applicant, subdivider or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of a building permit for infrastructure improvements within the service district for the property:
 - a) \$9,000 per dwelling unit, if paid prior to July 1, 2004; or
 - b) The amount approved by the Board of Supervisors not to exceed \$9,000 per dwelling unit adjusted upward by an increase in the Marshall and Swift Building Cost Index between July 1, 2003 and July 1 of the

fiscal year in which the payment is made if paid prior to June 30, 2004.

- c) In the event the cash payment is not used for the purpose for which proffered within fifteen (15) years of receipt, the cash shall be returned in full to the payor. (B&M)
- 9. The maximum number of dwelling units shall not exceed 130 units if the recreational amenities outlined in Proffered Condition 18 are provided on-site; however, the total number of permitted dwelling units may be increased to a maximum of 136 units if such recreational amenities are provided off-site, subject to the requirements outlined in Proffered Condition 18. (P)
- 10. No direct access shall be provided from the property to Ironbridge Boulevard. Direct access from the property to Ironbridge Parkway shall be limited to two (2) public roads. The exact location of these accesses shall be approved by the Transportation Department. (T)
- 11. Prior to the issuance of an occupancy permit, an eastbound left turn lane shall be constructed along Ironbridge Parkway at the existing crossover located approximately 1,000 feet west from the Ironbridge Boulevard intersection. The developer shall dedicate to and for the benefit of Chesterfield County, free and unrestricted, or any additional right-of-way (or easements) required for this improvements. (T)
- 12. All roads that accommodate general traffic circulation through the property, as determined by the Transportation Department, shall be designed and constructed to State standards and taken into the State System. Setbacks from these public roads shall be identified for special access streets pursuant to Section 19-505(b) of the Zoning Ordinance. This condition may be modified by the Transportation Department if it is determined that the roads or any part of such roads cannot be designated for State acceptance. For any roads which accommodate general traffic circulation through the development that are not be a part of the State System, a plan that insures the continual maintenance of the private streets shall be submitted to, and approved by the Transportation Department. (T)
- 13. Areas shall be provided within the development to accommodate a minimum of ten (10) overflow parking spaces generally as shown on the conceptual site plan Exhibit "C" dated 10/8/04. Such parking shall be in addition to Ordinance requirements and may be provided within right of way subject to VDOT approval or within common areas. The exact treatment and location of the parking shall be addressed at the time of tentative subdivision review. (P)
- 14. Within the area designated as "additional landscaping areas" shown on conceptual site plan Exhibit "C" dated 10/8/04, landscaping in addition to Ordinance requirements shall be provided to minimize view of the units from Ironbridge Parkway and Ironbridge Boulevard.

The exact species, size and spacing shall be approved at the time of subdivision review. (P)

15. Any project identification sign shall be a monument design and shall not exceed a height of six (6) feet. (P)
16. A fifty (50) foot buffer shall be provided along the western property boundary. This buffer shall be located within recorded open space and shall comply with the requirements of the Zoning Ordinance. (P)
17. The tentative subdivision plat shall be submitted for Planning Commission review and approval, as set forth in Section 17-23 of the Subdivision Ordinance. The applicant shall notify the last known President of the Arbor Landing Homeowners Association, the Bel Arbor Homeowners Association and the Ironbridge Parkway Owners Association on file with the Planning Department at least twenty-one (21) days prior to the Planning Commission's consideration of the tentative subdivision, of the time and date of tentative plan consideration. (P)
18. Prior to the issuance of building permits for more than fifty (50) dwelling units, at a minimum, the following recreational facilities shall be completed as determined by the Planning Department:
 - a) A twenty (20) foot by forty (40) foot swimming pool;
 - b) A 1,000 gross square foot accessory building for the pool; and,
 - c) One (1) tennis court or basketball court.

The Planning Commission may modify this condition at the time of tentative subdivision review provided an acceptable alternative agreement exists to provide for active recreational facilities off-site.

(Note: Recreational area required by the Zoning Ordinance, Section 19-105(o), must still be provided on-site.)

19. Any on-site recreational facilities shall be subject to the following restrictions:
 - a) There shall be no outside public address systems or speakers.
 - b) With the exception of playground areas which accommodate swings, jungle gyms, or similar such facilities, all outdoor play fields, courts, swimming pools and similar active recreational areas shall be located a minimum of one hundred (100) feet from any existing detached single family residential lot lines and a minimum of thirty-five (35) feet from any existing public road.
 - c) Any playground areas (i.e., areas accommodating swings, jungle gyms or similar such facilities) shall be located a minimum of forty (40) feet from all property lines. A forty (40) foot buffer shall

be provided along the perimeter of these recreational facilities except where adjacent to any existing or proposed roads. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.

- d) The location of all active recreational uses shall be identified in conjunction with the submittal of the first tentative subdivision plan.
- e) In conjunction with the recordation of any lot adjacent to active recreational area(s), such area(s) shall be identified on the record plat along with the proposed recreational uses and required conditions. (P)

20. The following shall be recorded as restrictive covenants in conjunction with the recordation of any subdivision plat for the Property:

- a) All lots shall be subject to all the covenants, conditions, and restrictions currently in effect for the Ironbridge Property Owners Association;
- b) The storage of boats and recreational vehicles (RVs) on the public streets shall be prohibited.
- c) No curbside trash pickup will be permitted.
- d) No garage shall be converted to permanent living space. (P)

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

04SN0320

In Dale Magisterial District, KENNETH MORRIS requests Conditional Use and amendment of zoning district map to permit a pet grooming shop in an Agricultural (A) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 2.51 to 4.0 units per acre. This request lies on 2.3 acres and is known as 8501 Hopkins Road. Tax ID 785-672-0630 (Sheet 18).

Mr. Turner presented a summary of Case 04SN0320 and stated the Planning Commission and staff recommended approval and acceptance of the proffered conditions.

Mr. Kenneth Morris stated the recommendation is acceptable.

Mr. Miller called for public comment.

No one came forward to speak to the request.

On motion of Mr. Miller, seconded by Mr. King, the Board approved Case 04SN0320 and accepted the following proffered conditions:

1. This Conditional Use shall be granted to and for Kenneth or Cleta Morris only and shall not be transferable or run with the land. (P)
2. There shall be no signs permitted to identify this use. (P)
3. There shall be no outside holding pens or runs. (P)
4. This use shall not be open to the public before 8:00 AM and after 6:00 PM, Monday through Saturday or on Sunday. (P)
5. Grooming services shall not include dipping (i.e., flea and/or tick removal) services or any other services that would result in disposal of pesticides. (P)
6. Pet grooming services shall be restricted to within the residence and to an accessory building of no more than 350 square feet in area. Any new structure shall have a residential architectural appearance. (P)

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

04SN0322

In Bermuda Magisterial District, TONY & ATHENA S. AGAPIS request rezoning and amendment of zoning district map from Residential (R-7) to General Business (C-5). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 2.51 to 4.0 units per acre. This request lies on 0.2 acre fronting approximately fifty (50) feet on the north line of Osborne Road, approximately 130 feet east of Elokomin Avenue. Tax ID 798-659-0550 (Sheet 26).

Mr. Turner presented a summary of Case 04SN0322 and stated the Planning Commission and staff recommended approval and acceptance of proffered conditions.

Mr. Dean Hawkins, representing the applicant, stated the recommendation is acceptable.

Mr. Miller called for public comment.

No one came forward to speak to the request.

On motion of Mr. King, seconded by Mrs. Humphrey, the Board approved Case 04SN0322 and accepted the following proffered conditions:

1. Prior to any site plan approval, thirty-five (35) feet of right of way along the south side of Osborne Road, measured from the centerline of that part of Osborne Road immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
2. No direct access shall be provided from the request property to or from Osborne Road. (T)

3. There shall be no parking between the rear line of the Building and the eastern property line. (P)
4. The uses permitted shall be limited to offices and medical clinics. (P)

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

04SN0279

In Clover Hill Magisterial District, BRUCE M. GALLAGHER AND RHONDA B. GALLAGHER request Conditional Use and amendment of zoning district map to permit a business (lawn care) in an Agricultural (A) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1.0 - 2.5 dwelling units per acre. This request lies on 2.0 acres and is known as 5710 Qualla Road. Tax ID 746-675-9350 (Sheet 16).

Mr. Miller inquired whether anyone was present to speak to Case 04SN0279.

Seeing no one come forward, Mr. Warren stated a presentation of the case by staff was not necessary.

Mrs. Rhonda Gallagher, accompanied by Mr. Bruce Gallagher, stated the proffered conditions are acceptable.

Mr. Miller called for public comment.

No one came forward to speak to the request.

On motion of Mr. Warren, seconded by Mrs. Humphrey, the Board approved Case 04SN0279 and accepted the following proffered conditions:

1. This Conditional Use shall be granted to and for Bruce M. Gallagher and/or Rhonda B. Gallagher, exclusively, and shall not be transferable or run with the land. (P)
2. The lawn care contractor's shop shall be located within the two (2) existing detached accessory structures (garage structure and shed). There shall be no further additions or expansions to the existing buildings to accommodate this use. (P)
3. The lawn care contractor's shop shall be permitted for a maximum of eighteen (18) months from the date of approval of this request. (P)
4. There shall be no signs permitted to identify this use. (P)
5. Hours of operation shall be restricted to between 7 a.m. and 7 p.m. Monday through Saturday. No Sunday operation shall be permitted. (P)

6. Except for a 400 square foot area used for mulch storage adjacent to the existing garage and for storage within the existing open carport structure attached to the garage, outside storage shall not be permitted. (P)

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

03SN0332 (Amended)

In Matoaca Magisterial District, FAIRWEATHER INVESTMENTS, LLC requests rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-88) with Conditional Use to permit recreational facilities on up to 20 acres. Residential use of up to 0.5 unit per acre is permitted in a Residential (R-88) District. The Comprehensive Plan suggests the property is appropriate for residential use with 1-5 acre lots suited to Residential (R-88) zoning. This request lies on 1,430 acres fronting approximately 11,600 feet on the east line of Nash Road across from Reedy Branch Road, also fronting in three (3) places for a total of approximately 7,050 feet on the west line of Cattail Road across from Reedy Branch and Rowlett Roads. Tax ID 759-636-6377 (Sheets 33 and 40).

Ms. Darla Orr presented a summary of Case 03SN0332 and stated a proffered condition limits development to a maximum of one-half unit per acre, yielding approximately 715 dwelling units. She further stated the applicant intends to use public water and a privately operated wastewater treatment facility to serve the development and has applied for a Conditional Use Permit to permit a wastewater treatment facility on 30 acres of the subject property, indicating that the request is scheduled to be heard by the Planning Commission in January 2005. She stated proffered conditions require a right of way dedication and construction of two lanes of Reedy Branch Road Extended across the subject property from Cattail Road to Nash Road, and also establish standards for the location of the recreational facilities on the property and also preclude manufactured homes. She further stated the developer has proffered to correct substandard alignments along Nash Road. She stated proffered conditions address typical road improvements such as shoulder and lane improvements, turn lanes, right of way dedications and construction of Thoroughfare Plan roads. She further stated the applicant has also proffered to contribute cash towards area road improvements within the traffic shed for this development, noting that the proffered condition provides that the money must first be used to correct the existing substandard alignment along Nash Road. She stated staff recommends approval of the request, subject to the applicant adequately addressing the impacts on capital facilities. She noted the request complies with the Southern and Western Area Plan. She stated that, while a cash contribution is offered to defray the cost of the road improvements in an amount equivalent to the dollar value that would be appropriate to accept as a cash proffer in the case, the proffered condition varies from that which has been consistently accepted in accordance with the Board's policy, noting that it does not adequately address the impacts of the development on schools, fire services, libraries and parks. She further stated, on a four to one vote, the Planning

Commission recommended approval and acceptance of the proffered conditions, finding that the transportation contribution addresses needed road improvements. She stated the Commission noted that Fire and EMS response times are adequate in the case and that area schools are under capacity. She further stated the Board has received an addendum noting a difference in capacity at Matoaca High School and providing a memorandum from School Administration reiterating their position that the impact on schools should be addressed in this case.

Mr. John Cogbill, representing the applicant, stated the proposal complies with the Southern and Western Area Plan, and he believes it provides a new and quicker way to address important infrastructure issues. He further stated the proposal addresses concerns of the citizens who attended community meetings regarding the development and improves the quality of life of area residents by improving the road system in the area. He stated staff has recommended approval, noting that there are unique circumstances relative to the case that justify acceptance of the proffered conditions. He noted that all of the schools in the area of the proposed development are currently under capacity and projections for this year exceeded the actual enrollment. He stated the need for a new Fire and EMS facility is not anticipated until after 2022. He further stated the proposed Eppington expansion will provide additional trails in the Matoaca District and the proposed development provides a number of trails and amenities available to the residents. He stated the two libraries that would potentially be affected by the development are Ettrick-Matoaca and Central, indicating that Central Library was recently expanded and there is no need for those facilities at this time. He further stated there is a current need for transportation improvements in the area and the proposal offers an opportunity for a partnership between the private developer and the county to make funds available for use in Traffic Shed 17 to solve the problems that the citizens have indicated are most pressing in this area. He stated the case provides over 101 acres of road right of way, including approximately 65 acres for the proposed east-west expressway. He further stated the case also provides for approximately \$2 million in road improvements on Nash and Cattail Roads, including widening, adding and improving shoulders, and making improvements necessary at the access points. He stated the applicant has also agreed to build two lanes of Reedy Branch Road from its current terminus at the property line to the other side of the property where it would connect with the other existing portion of Reedy Branch, at a cost of approximately \$1.2 million, and to extend two water lines to the property at a cost of approximately \$700,000, which would serve this property, improve water pressure in the area and possibility provide opportunities for area residents to connect to the public water system. He further stated the case is unique in that it complies with the Plan, addresses the most important issue in the county in this area and provides a fund that makes money readily available in the short term to address many transportation concerns.

In response to Mr. Barber's inquiry, Mr. Cogbill stated at this point, private septic systems are planned for the development, consistent with The Highlands and other cases that have been approved in the area. He further stated

discussions have begun regarding use of a private wastewater treatment facility to serve the property, but this proposal is not ready to be brought forward.

After brief discussion, Mr. Micas stated, if the applicant requests a Conditional Use Permit to allow a private wastewater treatment facility on the subject property, the request must be approved by the Health Department as well as the Board of Supervisors.

Mr. Miller called for public comment.

Mr. Greg Tarver, representing the Deerfield Estates Civic Association, expressed concerns relative to the impact of extending Nash Road to Route 10. He stated Deerfield residents have just been made aware of this proposal in the past few weeks and requested a deferral of the case until the residents can understand how the extension of Nash Road will affect their neighborhood.

Mr. Miller stated area residents will be afforded the opportunity to provide input when the issue of extending Nash Road arises.

Mr. Turner stated the applicant has agreed to provide money that can be allocated towards transportation improvements in Traffic Shed 17. He further stated one of the options that may be considered would be a Nash Road extension, but the case is not dependent upon this.

Mr. Jerry Jernigan, a Matoaca District resident, stated he supports the proposed development.

Mr. Rich Carroll, a resident of Cattail Road, stated he supports the proposal and believes it should be approved because of the road improvements it will provide.

There being no one else to speak to the request, the public hearing was closed.

In response to Mrs. Humphrey's questions, Mr. Cogbill stated the applicant currently plans to develop the subject property using private septic systems, and is still considering whether or not a privately operated wastewater treatment facility is viable. He further stated, in order for the Board to consider a Nash Road extension, it would probably need to be recommended as part of the Thoroughfare Plan, indicating that this has not been done. He stated improving Beach Road could be very expensive and very difficult; therefore, a new route to bring Nash Road to Route 10 might be preferable to improve the traffic flow, but no proposal has been made for this. He further stated this is only one of many options that is being considered for use of the funds being proffered by the developer, indicating that the Board would have jurisdiction relative to allocating the traffic funds. He stated the developer has agreed to make payments of \$300,000 at a minimum annually for ten years once the first building permit is received, which will allow the Board to use the money more quickly to provide the improvements it feels are necessary.

Mrs. Humphrey stated she believes the proposal represents a unique and timely effort to generate transportation dollars.

She further stated all issues have been addressed consistent with the county's development standards and the proposal is consistent with R-88 zoning.

Mrs. Humphrey then made a motion, seconded by Mr. Warren, for the Board to approve Case 03SN0332 and accept the proffered conditions.

Mr. Barber stated he understands that transportation is an immediate issue in the area, but noted that School Administration has communicated concerns relative to the applicant not providing for the impact of the proposed development on Schools. He inquired how \$300,000 per year can be turned into a substantial road project.

Mr. McCracken stated the idea was to have a revenue stream that would be significantly more than payment for each lot; but, at this time, staff cannot guarantee how the proffer money would turn into a substantial road project. He further stated staff is studying the possibility of revenue bonds to address transportation needs more rapidly. He stated one of the difficulties with the cash proffer system is that the county must wait until a significant amount of money is accumulated, at least \$1 million, before moving forward on a major project unless the money can be combined with state funding. He expressed concerns relative to the necessity for improvements at the intersection of Beach Road and Route 10, indicating that Beach Road itself will be a challenge to improve. He stated extending Nash Road through undeveloped property would be a much easier option than widening Beach Road. He further stated, if the county were to use the cash proffers from this development to extend Nash Road, he would still look at developers of future projects in the area to contribute to the road extension as they come forward. He stated extension of Nash Road to Route 10 would probably require a combination of funding from the private sector, the county, and possibly even the state.

Mr. Barber inquired how much money would be required from the developer if an extension of Nash Road were required to be built as part of the development.

Mr. McCracken stated staff has not determined a cost to extend Nash Road to Route 10, but the developer has indicated he believes it would cost approximately \$3.5 million. He further stated, in his opinion, this estimate seems reasonable. He stated improvement of seven designated areas of Nash Road, which will be the first use of the cash proffers, will cost approximately \$1 million. He further stated the county would decide which improvements would be made with the remaining cash proffers.

Mr. King expressed concerns relative to road conditions on Nash Road, south of Beach Road, and inquired whether any improvements would be made in this area.

Mr. McCracken stated there is a project scheduled for 2008 in the Secondary Road Six-Year Plan that will start on Nash Road where the last project ended and continue further south towards The Highlands.

Mr. King inquired when improvements will be made between Cattail and Beach Roads and between Woodpecker and Nash Roads.

Mr. McCracken stated unless staff can find a way, such as through revenue bonds, to use cash proffers earlier, then it will be 2010 at the earliest before these issues are addressed.

In response to Mr. King's question, Mr. Ramsey stated the General Assembly has granted localities authority to issue revenue bonds against cash proffers. He further stated staff is studying the financial impact of the revenue bonds on the county and is also looking for ways to accelerate road projects using the proffers or the cash proffer system.

Mr. King stated he just became aware of the school's position today regarding the cash proffers, but he knows transportation is an extremely pressing issue in the county. He further stated he will support the motion, although he realizes school issues are significant.

Mr. Miller called for a vote on the motion of Mrs. Humphrey, seconded by Mr. Warren, for the Board to approve Case 03SN0332 and accept the following proffered conditions:

The Developer (the "Developer") in this zoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for himself and his successors or assigns, proffers that the development of the property known as Chesterfield County Tax Identification Number 759-636-6377 (the "Property") under consideration will be developed according to the following conditions if, and only if, the rezoning request for R-88 with Conditional Use is granted. In the event the request is denied or approved with conditions not agreed to by the Developer, the proffers and conditions shall immediately be null and void and of no further force or effect. If the zoning is granted, these proffers and conditions will supersede all proffers and conditions now existing on the Property.

1. Utilities. In the event that the Developer is unable to acquire the easements necessary for installation of an extension of the public water line, the Developer may request, in writing, the County to acquire such easements. If eligible, County staff shall pursue such authorization to assist the Developer in the acquisition of such easements. (U)
2. Timbering. With the exception of timbering which has been approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
3. Density. The total number of single family residential units shall not exceed 0.5 single family residential units per acre. (P)

4. Dedications of Right-of-Way. In conjunction with recordation of the initial subdivision plat or prior to any site plan approval, whichever occurs first, the following rights-of-way shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County:
- a. Forty-five (45) feet of right-of-way on the east side of Nash Road, measured from a revised centerline of Nash Road based on VDOT Urban Minor Arterial (50 MPH) standards with modifications approved by the Transportation Department, immediately adjacent to the Property.
 - b. Forty-five (45) feet of right-of-way on the west side of Cattail Road, measured from a revised centerline of Cattail Road based on VDOT Urban Minor Arterial (50 MPH) standards with modifications approved by the Transportation Department, immediately adjacent to the Property.
 - c. A ninety (90) foot wide right-of-way for the extension of Reedy Branch Road ("Reedy Branch Extended") from Nash Road at the Reedy Branch Road intersection through the Property to Cattail Road at the Reedy Branch Road intersection, based on VDOT Urban Minor Arterial (50 MPH) standards with modifications approved by the Transportation Department. The exact location of this right-of-way shall be approved by the Transportation Department.
 - d. A two hundred (200) foot wide limited access right-of-way for an east/west freeway ("East/West Freeway") from Nash Road through the northern part of the Property to the northern Property line based on VDOT Rural Principal Arterial (60 MPH) standards with modifications approved by the Transportation Department. In addition, a variable width right-of-way for an interchange for the East/West Freeway with Nash Road, totaling approximately forty (40) acres. The exact location of both the East/West Freeway and the interchange right-of-way (the "Rights-of-Way") shall be approved by the Transportation Department. There shall be no requirement to dedicate the Rights-of-Way if, prior to recordation of the initial subdivision plat or site plan approval, whichever occurs first, the Board of Supervisors approves an alternative location for the East/West Freeway that does not extend across the Property. (T)

5. Access.

- a. Direct access from the Property to Nash Road shall be limited to five (5) public roads including Reedy Branch Extended. Direct access from the Property to Cattail Road shall be limited to three (3) public roads including Reedy Branch Extended. The Transportation Department may modify this condition to allow additional public road access to Nash Road and/or Cattail Road. The exact location of these accesses shall be approved by the Transportation Department.

- b. Prior to any tentative subdivision plat or prior to any site plan approval, whichever occurs first, an access plan for Reedy Branch Extended shall be submitted to and approved by the Transportation Department. Access from the Property to Reedy Branch Extended shall conform to the approved access plan. (T)

6. Road Improvements.

To provide for an adequate roadway system, the Developer shall be responsible for the following:

- a. Construction of two (2) lanes of Reedy Branch Extended to VDOT Urban Minor Arterial (50 MPH) standards with modifications approved by the Transportation Department, from Nash Road at its intersection with Reedy Branch Road through the Property to Cattail Road at its intersection with Reedy Branch Road.
- b. Widening/improving the east side of Nash Road to an eleven (11) foot wide travel lane, measured from the centerline of Nash Road with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder and overlaying the full width of the road ,except in the locations described in Proffered Condition 8.b.iii through 8.b.vii, with one and one-half (1.5) inches of compacted bituminous asphalt concrete, with modifications approved by the Transportation Department, for the entire Property frontage.
- c. Widening/improving the west side of Cattail Road to an eleven (11) foot wide travel lane, measured from the centerline of Cattail Road with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder and overlaying the full width of the road with one and one-half (1.5) inches of compacted bituminous asphalt concrete, with modifications approved by the Transportation Department, for the entire Property frontage. If full development of the Property, as determined by the Transportation Department, occurs within eight (8) years from the date the Board of Supervisors approves this request, the Developer shall not be required to overlay the full width of Cattail Road.
- d. Construction of additional pavement along Nash Road, along Cattail Road and along Reedy Branch Extended at each approved access to provide left and right turn lanes, based on Transportation Department standards.
- e. Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the road improvements described above. In the event the Developer is unable to acquire the "off-site" right-of-way necessary for the road improvements described above, the Developer may request, in writing, the County to acquire such "off-site" right-of-way as a

public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the Developer. The cost shall be determined through the public right-of-way acquisition process. In the event the County chooses not to assist the Developer in acquisition of the "off-site" right-of-way, the Developer shall be relieved of the obligation to acquire the "off-site" right-of-way, and only be required to provide the road improvements that can be accommodated within available right-of-way as determined by the Transportation Department. (T)

7. Transportation Phasing Plan. Prior to any construction plan or site plan approval, whichever occurs first, a phasing plan for the required road improvements, as identified in Proffered Condition 6, shall be submitted to and approved by the Transportation Department. (T)

8. Transportation Contribution.

a. The Developer, its successor, or its assigns shall pay to Chesterfield County either: 1) prior to issuance of the first building permit, the sum of \$300,000 and each year from the date of that initial payment thereafter shall pay another \$300,000, until all the lots on the Property have been recorded or until these cumulative payments equal to \$3,000,000, whichever occurs first; or 2) prior to issuance of the initial building permit within each recorded subdivision section, the sum of \$9522 multiplied by the number of lots in that subdivision section. The Developer, its successor, or its assigns shall pay the one of these two options that provides a greater dollar amount to Chesterfield County each year. In no event shall the total amount paid by the Developer, its successor, or its assigns be less than \$3,000,000; however, the total amount paid shall not exceed \$3,000,000 until after the recordation of the 315th lot on the Property. After recordation of the initial 315 lots on the Property, the Developer, its successor or its assigns shall pay the sum of \$9522 for every lot recorded thereafter.

b. The payments shall be used for road improvements within Traffic Shed 17 or for road improvements that provide relief to that Traffic Shed, as determined by the Transportation Department. Unless the following improvements have been provided by others, the payments shall first be used to correct existing substandard alignments on Nash Road south of Woodpecker Road based on VDOT Urban Minor Arterial (50 MPH) standards, with modifications approved by the Transportation Department, in the following locations:

- i. 0.4 mile south of the intersection of Nash Road and Woodpecker Road;
- ii. 0.5 mile south of the intersection of Nash Road and Woodpecker Road;
- iii. 1.5 miles south of the intersection of Nash Road and Woodpecker Road;

- iv. 1.6 miles south of the intersection of Nash Road and Woodpecker Road;
 - v. 2.3 miles south of the intersection of Nash Road and Woodpecker Road;
 - vi. 2.4 miles south of the intersection of Nash Road and Woodpecker Road; and
 - vii. 2.7 miles south of the intersection of Nash Road and Woodpecker Road.
- c. If, upon the mutual agreement of the Transportation Department and the Developer, its successor or its assigns, the Developer, its successor or its assigns provides any of the improvements listed in Proffered Condition 8.b.i. through 8.b.vii., then the Developer, its successor or its assigns shall receive a reduction in the payments as set forth in Proffered Condition 8.a. The reduction shall be equal to the costs, as approved by the Transportation Department, of the Developer, its successors or its assigns providing such improvements. For the purposes of this proffer, the costs shall include, but not be limited to, the cost of right-of-way acquisition, engineering costs, costs of relocating utilities and actual costs of construction (including labor, materials and overhead) ("Work"). Before any Work is performed, the Developer, its successor or its assigns, shall receive prior written approval by the Transportation Department for any reduction(s) in payment(s). (T)
9. Manufactured Homes. Manufactured homes shall not be permitted on the Property. This proffered condition shall not be interpreted to prohibit the installation of any mobile real estate sales office permitted on the Property by an approved Conditional Use, which shall not be used for dwelling purposes. (P)
10. Covenant Regarding Manufactured Homes. The following shall be recorded as restrictive covenants in conjunction with recordation of any subdivision plat for the Property: "No manufactured homes shall be allowed to become a residence, temporary or permanent." (P)
11. Recreational Facilities. Any recreational facilities shall be subject to the following restrictions:
- a. There shall be no outside public address systems or speakers.
 - b. With the exception of playground areas which accommodate swings, jungle gyms, or similar such facilities, all outdoor play fields, courts, swimming pools and similar active recreational areas shall be located a minimum of one hundred (100) feet from any proposed or existing single family residential lot line and a minimum of fifty (50) feet from any existing or proposed public road.
 - c. Within the one hundred (100) foot and fifty (50) foot setbacks, a fifty (50) foot buffer shall be provided along the perimeter of all active

recreational facilities except where adjacent to any existing or proposed roads. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.

- d. Any playground areas (i.e., areas accommodating swings, jungle gyms or similar such facilities) shall be located a minimum of forty (40) feet from all property lines. A forty (40) foot buffer shall be provided along the perimeter of these recreational facilities except where adjacent to any existing or proposed roads. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
- e. Nothing herein shall prevent development of indoor facilities and/or parking within the one hundred (100) foot setback.
- f. The location of all active recreational uses shall be identified in conjunction with the submittal of the first tentative subdivision plan.
- g. In conjunction with the recordation of any lot adjacent to active recreational area(s), such area(s) shall be identified on the record plat along with the proposed recreational uses and required conditions. (P)

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

Mr. Warren expressed appreciation to Mr. Cogbill for his efforts, as a member of the Commonwealth Transportation Board, in securing the funding for the Route 288 opening.

04SN0182 (Amended)

In Dale Magisterial District, GEORGE P. EMERSON, JR. requests rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-40). Residential use of up to 1.09 units per acre is permitted in a Residential (R-40) District. The Comprehensive Plan suggests the property is appropriate for residential use on 1-5 acre lots suited to Residential (R-88) zoning. This request lies on 438 acres fronting approximately 1,100 feet on the south line of Nash Road approximately 3,100 feet northeast of East Fair Drive, also fronting 1,400 feet on the east line of East Fair Drive approximately 450 feet north of Regalia Drive. Tax ID 768-654-1587 (Sheet 25).

Ms. Orr presented a summary of Case 04SN0182 and stated proffered conditions provide for a trail in a private easement along Swift Creek; preclude manufactured homes; and also provide that restrictive covenants will be recorded with the development consistent with the same restrictive covenants as The Highlands development. She further stated staff recommended denial, indicating that the request fails to comply with the Southern and Western Area Plan, which suggests the subject property is appropriate for residential use of one to five acre lots, suited for Residential (R-88) zoning. She further stated, although the applicant has

offered a contribution to assist in defraying the cost of the proposed development on road infrastructure within the traffic shed, the remaining proffered conditions do not adequately address the impact of the development on schools, fire services, libraries and parks. She stated the Planning Commission, on a four to one vote, recommended approval and acceptance of the proffered conditions, noting that the proposed zoning will result in a development that is compatible with existing area development and that the transportation contribution will address needed road improvements. She further stated the Board has received an addendum, which provides the memorandum from School Administration reiterating their position that the development should be required to address its impact on the school system.

In response to Mr. Barber's question, Ms. Orr stated the proffered condition allows the developer to determine whether the proposed trail is dedicated as a public easement or is owned privately by the homeowners' association.

Mr. Barber stated the Parks and Recreation Master Plan anticipates a trail along Swift Creek that would be open to the public.

Mr. Oliver "Skitch" Rudy, representing the applicant, stated the proposal is basically an extension of The Highlands. He further stated the applicant requested R-40 zoning so that the number of lots possible could be increased in order to increase the amount of money envisioned to be proffered to the county to address transportation concerns. He stated the applicant has agreed to provide \$400,000 per year beginning with the first building permit to address roads. He stated he knows schools are important, but everyone will benefit from improved roads. He further stated that, between this case and the Fairweather case, the county will receive \$700,000 annually, which should support a bond issue to address the road concerns now. He stated, although the proposal is not consistent with the Board's cash proffer policy, sometimes imagination needs to deal with a serious problem. He further stated Mr. McCracken was very accurate in his description of trying to improve Beach Road without another outlet. He stated the applicant is providing a way to address the necessary transportation issues, and noted residents of The Highlands support the project because it will be consistent with their subdivision and thereby enhance property values. He further stated homeowners do not necessarily desire public access across their property, and therefore the easement could be dedicated to the homeowners' association and then the association, in conjunction with the county, could deal with the future of the trail. He stated the applicant is carefully developing the area so that property values will continue to increase, and requested the Board's support of the development.

In response to Mr. Miller's question, Mr. Rudy stated the applicant anticipates that approximately 260 homes will be built on the subject property.

Mr. Miller called for public comment.

Mr. Jerry Jernigan corrected Mr. Rudy's statement, indicating that he did not voice his opinion at the Planning Commission

regarding this case because it was not in the Matoaca District.

Mr. Brian Patterson, a resident of The Highlands, stated he supports the proposed development.

Mr. Greg Tarver, representing the Deerfield Civic Association, stated he is still confused on the issue of extending Nash Road.

Mr. Miller stated approval of the zoning request is not contingent upon the extension of Nash Road. He assured Mr. Tarver that Deerfield residents would have an opportunity to address the extension of Nash Road, when and if it occurs.

Mr. Tarver requested a deferral or denial, indicating that the road conditions are not good and he believes the improvements should be addressed before the developments are approved.

Mr. Miller made a motion for the Board to approve Case 04SN0182. He stated, although the request fails to comply with the Southern and Western Area Plan, the R-40 zoning is compatible with The Highlands development and the developer has proffered the same restrictive covenants that are present in The Highlands.

Mrs. Humphrey seconded Mr. Miller's motion. She noted for the record that the subject property is adjacent to a landfill, which is a very vital facility in the county.

Mr. Miller called for a vote on his motion, seconded by Mrs. Humphrey, for the Board to approve Case 04SN0182 and accept the following proffered conditions:

George P. Emerson, Jr. (the "Applicant"), pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for itself and its successors or assigns, proffers that the development of the parcel known as Chesterfield County Tax Identification Numbers 768-654-1587 (the "Property") under consideration will be developed according to the following conditions if, and only if, the rezoning request for R-40 is granted. In the event the request is denied or approved with conditions not agreed to by the Applicant, the proffers and conditions shall immediately be null and void and of no further force or effect. If the zoning is granted, these proffers and conditions will supersede all proffers and conditions now existing on the Property.

1. (a) If the existing dam and pond straddling an adjacent property line is used for the project's BMP, then it shall be retrofitted to meet current day standards as outlined in the Environmental Engineering reference manual to include, but not limited to, property primary spillways, emergency spillways, and structural stability. The retrofit design shall be performed by a qualified professional and all remedial action shall take place in conjunction with that phase of development which is located within the dam's contributory drainage way.

- (b) If the proper easements can not be obtained to retrofit the existing facility, identified in item 1(a), upstream BMPs shall be constructed to render the existing primary spillways adequate to pass the ten (10) year storm. (EE)
- 2. Timbering. With the exception of timbering which has been approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department, and the approved devices have been installed. (EE)
- 3. Transportation
 - a. Accesses. Direct access from the Property to Nash Road shall be limited to no more than one (1) public road (the "Nash Road Access"). Direct access from the Property to Eastfair Drive shall be limited to no more than two (2) public road (the "Eastfair Drive Accesses"). The exact location of these accesses shall be approved by the Transportation Department.
 - b. Nash Road Improvements. If the Nash Road Access is constructed, the Applicant shall be responsible for the following:
 - (i) Widening/improving the east side of Nash Road to an eleven (11) foot wide travel lane, measured from the centerline of Nash Road with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder and overlaying the full width of the road with one and one half (1.5) inches of compacted bituminous asphalt concrete, with modifications approved by the Transportation Department, for the entire property frontage.
 - (ii) Construction of additional pavement along Nash Road at the Nash Road Access to provide left and right turn lanes.
 - (iii) Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. In the event the Applicant is unable to acquire the right-of-way necessary for the road improvements identified in Proffered Conditions 3(b)(i) and 3(b)(ii), the Applicant may request, in writing, the County to acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the Applicant. In the event the County chooses not to assist the Applicant in acquisition of such "off-site" right-of-way, the Applicant shall be relieved of the obligation to acquire such "off-site" right-of-way, and shall only be obligated to provide the road improvement than can be accommodated within available right-of-way as determined by

the Transportation Department.

- c. Eastfair Drive Improvements. If one or both of the Eastfair Drive Accesses are constructed, the Applicant shall be responsible for the following:
- (i) Construction of additional pavement along Eastfair Drive at the Eastfair Drive Accesses to provide left and right turn lanes, based on Transportation Department standards.
 - (ii) Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified in Proffered Conditions 3(c)(i).
- d. Transportation Phasing Plan. Prior to any construction plan approval, a phasing plan for the required road improvements, as identified in Proffered Conditions 3(b) and 3(c)(i), shall be submitted to and approved by the Transportation Department.
- e. Transportation Contribution. The Applicant, his successor, or his assigns shall pay to Chesterfield County either: 1) prior to issuance of the first building permit, the sum of \$400,000 and each year from the date off that initial payment thereafter shall pay another \$400,000 until all the lots on the Property have been recorded or until these cumulative payments equal to \$2,000,000, whichever occurs first; or 2) prior to issuance of the initial building permit within each recorded subdivision section, the sum of \$9522, multiplied by the number of lots in that subdivision section. The Applicant, his successor, or his assigns shall pay the one of these two options that provides a greater dollar amount to Chesterfield County each year. In no event shall the total amount paid by the Applicant, his successor, or his assigns be less than \$2,000,000; however, the total amount paid shall not exceed \$2,000,000 until after the recordation of the 210th lot on the Property. After the recordation of the initial 210 lots on the Property, the Applicant, his successor, or his assigns shall pay the sum of \$9,522 for every lot recorded thereafter. The payments shall be used for road improvements within Traffic Shed 17 or for road improvements that provide relief to that Traffic Shed, as determined by the Transportation Department. The payments could be used towards road improvements such as the reconstruction of Nash Road or an extension of Nash Road from Beach Road to Iron Bridge Road (Route 10).

If, upon the mutual agreement of the Transportation Department and the Applicant, his successor, or his assigns, the Applicant, his successor, or his assigns constructs an extension of Nash Road from Beach Road to Iron Bridge Road (Route 10), then the Applicant, his successor, or his assigns shall receive a reduction in the payments as set forth above in Proffered Condition 3(e). The reduction

shall be equal to the costs, as approved by the Transportation Department, to the Applicant, his successor, or his assigns in providing such road improvements. For the purposes of this proffer, the costs shall include, but not be limited to, the cost of right-of-way acquisition, engineering costs, costs of relocating utilities and actual costs of construction (including labor, materials, and overhead) ("Work"). Before any Work is performed, the Applicant, his successor, or his assigns, shall receive prior written approval by the Transportation Department for any reduction(s) in payment(s).

- f. Dedication of Right-of-Way. In conjunction with recordation of the initial subdivision plat or within sixty (60) days from a written request by the County, whichever occurs first, forty-five (45) feet of right-of-way on the east side of Nash Road, measured from a revised centerline of Nash Road based on VDOT Urban Minor Arterial (50 MPH) standards with modifications approved by the Transportation Department, immediately adjacent to the Property shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
4. Trail/Open Space along Swift Creek. An open space area, a minimum of 150 feet in width shall be provided along the length of Swift Creek from the northern to the southern parcel boundaries. Within this area the developer shall provide a trail. The exact length, width, and treatment of the trail shall be submitted to the Department of parks and Recreation for comments. The open space/trail shall be owned and maintained by the homeowners Association. (P&R)
5. Covenants Conditions, and Restrictions. It is the intention of the Applicant to incorporate the lots in this parcel into the Community known as the Highlands and to that end, restrictive covenants shall be recorded in conjunction with the recordation of any subdivision plat for the Property, which will subject said lots to all the covenants, conditions, and restriction currently in effect in all sections of the Highlands. (P)
6. Manufactured Homes.
 - a. Manufactured homes shall not be permitted on the Property. This proffered condition shall not be interpreted to prohibit the installation of any mobile real estate sales office permitted on the property by an approved Conditional Use, which shall not be used for dwelling purposes.
 - b. The following shall be recorded as a restrictive covenant in conjunction with the recordation of any subdivision plat for the property: "No manufactured homes shall be allowed to become a residence, temporary or otherwise." (P)

Ayes: Miller, Barber, Humphrey, King and Warren.
Nays: None.

16. PUBLIC HEARINGS

16.A. TO CONSIDER ADOPTION OF AMENDMENTS TO THE CHESAPEAKE BAY PRESERVATION ORDINANCE

Mr. Micas stated in 2002, the state extended the requirements of the Chesapeake Bay Preservation Ordinance to require that the Board map intermittent and perennial streams and to apply the same building restrictions to perennial streams that have been in existence since 1989. He further stated the Board expressed concerns in January and February 2004, relative to the effect of the state mandate on property owners and a number of changes were made between February and May 2004, including allowing developers to map their own property rather than being required to use county mapping; extending certain exceptions to the perennality standards; and eliminating any restrictions that were not strictly mandated by state law. He stated when the Board considered the issue in May 2004, continuing concerns were expressed relative to whether the ordinance amendments would limit building on certain properties within the county, and the public hearing was deferred until this date. He further stated additional changes have been made since the May 2004 public hearing, including expanding the exception process for people who might be affected by the new perennality standards; the Board of Supervisors considering exceptions to the ordinance rather than the Planning Commission; and additional language to clarify that the ordinance should not affect vested rights or should not result in the taking of property without compensation. He stated the proposed ordinance also includes changes related to buffer areas requested by the farming community. He further stated staff recommends adoption of the amended Chesapeake Bay Ordinance.

In response to Mr. Miller's question, Mr. Micas stated grandfathering exists for lots recorded prior to March 2002. He further stated lots recorded after that date are subject to the new perennality requirements. He stated anyone with an interest in property that might be affected by the new buffer standards could request an exception to the ordinance from the Board of Supervisors if they were not granted an administrative exception.

Mr. Miller called for public comment.

Mr. Greg Coombs expressed concerns relative to grandfathering of tentatively approved subdivisions or projects that have been underway for years, in which no lots have yet been recorded.

Mr. Micas stated if lots are recorded after March 1, 2002, the developer might be vested if he could show that he has diligently pursued the development and has invested substantial expenses.

Mr. Coombs expressed concerns that recording of lots is the last step after everything else has been approved, indicating that a large number of projects will be affected by the proposed ordinance amendments.

Mr. Stuart Jones, a Dale District resident representing the Chesterfield County Farm Bureau, stated staff has addressed three of the issues raised in the letter that the Farm Bureau sent to the Board last week. He further stated the Farm Bureau supports the proposed ordinance, as long as staff will continue to work with members of the farming community to iron out the final details relative to agricultural issues.

Mr. William Shewmake, a resident of the Midlothian District, expressed concerns relative to the definition of "perenniality," indicating that, in his opinion, it is not defined by the ordinance, so the common usage applies. He stated it is important that if a developer provides direct evidence that a stream is not perennial, then it is not necessary for him to go through the scientific method to determine perenniality, indicating that the scientific model should only be used in absence of direct evidence. He expressed concerns relative to the length of time it takes to receive staff's approval on construction plans and inquired whether having a private engineer certify perenniality would speed up the process.

Ms. Diana Parker, representing the Falls of the James Group of the Virginia Sierra Club, expressed concerns that the county has been noncompliant with the Chesapeake Bay Preservation Act since June 2004 and provided details of the benefits of adopting the ordinance amendments. She stated the environmental community worked with other interested parties on the ordinance amendments for months and expressed concerns that they were not made aware of the changes suggested by the agricultural community until tonight.

Dr. Betty Hunter-Clapp, a resident of the Clover Hill District, also expressed concerns that the environmental community was not notified of the changes suggested by the agricultural community. She further expressed concerns that the county has taken so long in adopting the state mandated regulations to protect the Chesapeake Bay. She stated she hopes the Board will take a better or different course of action, on behalf of the environmental community, when considering exceptions to the ordinance.

Mr. David Root, representing the Richmond Homebuilding Association, stated he has found in dealing with other jurisdictions that if the grandfathering provisions are not dealt with appropriately, tremendous problems have occurred. He referenced Hanover County, where compliance with the new Chesapeake Bay Ordinance has nullified many of the proffered conditions for specific projects. He stated, although he understands the county's need to become state compliant, the homebuilding industry believes the county will be moving blindly when adopting this ordinance because no one knows the effect of its passage.

Mr. Howard Nester, resident of the Dale District, thanked the Board for the opportunity provided to the agricultural community to work with staff on changes to the ordinance. He stated he believes landowners who lose the use of their property as a result of the ordinance should not be required to pay taxes on the property lost. He expressed concerns that the farmers will be required to fund the cost of

nutrient studies and BMPs, indicating that developers can pass this cost on to the homebuyers.

Mr. Tom Pakurar, Co-Chair of Hands-Across-the-Lake, stated he believes the proposal represents a compromise where nobody gets everything they want. He further stated he is still confused as to why the county would allow all-terrain vehicles running through resource protection areas. He stated he is hopeful that developers will continue to be able to achieve the proffered number of home lots, even with the restrictions of the proposed ordinance. He further stated he supports the ordinance and encouraged the Board to adopt it.

Mr. George Bryant, a resident of the Matoaca District, expressed concerns relative to the grandfathering issue, indicating that a lot of business decisions have been made based on approved zoning cases that will be affected by the proposed ordinance.

In response to Mrs. Humphrey's question, Mr. Micas stated the development community has been on notice since 2002 that the ordinance amendments were going into effect. He further stated the exception process must be based on scientific or environmental information and cannot be based on the Board's desire to change the grandfathering date.

Mrs. Humphrey expressed concerns that the county has not been able to acquire its own separate Soil and Water Conservation Board. She suggested that the cost of nutrient studies for county farmers be explored as a part of the budget process.

Mr. King expressed concerns that he still does not know the impact of the ordinance amendments on property owners. He stated he is bothered by the county being mandated by the state to adopt this ordinance without the streams first being charted. He further stated new development will adapt to the proposed amendments, but expressed concerns relative to homeowners who may lose the use of their property. He further stated he is opposed to the state mandating that the county condemn a person's property, but still tax them; therefore, he will abstain from voting on the issue.

Discussion ensued relative to determination of perennality.

In response to Mr. Barber's question, Ms. Joan Salvati, Water Quality Administrator stated the ordinance states there must be a scientifically valid method for determining perennality, and the Chesapeake Bay Local Assistance Board has guidance that defines several scientifically valid methods, one of which is empirical evidence, referred to by Mr. Shewmake, indicating that the burden of proof is on the developer.

In response to Mr. Warren's question, Mr. Ramsey stated the proposed changes to the ordinance were a result of input from individual Board members, not as a result of any special interest groups.

Mr. Warren stated he would have hoped that the proposed changes had been communicated to all interested parties.

Mr. Barber stated he had asked staff to provide mapping of both the Meadowville and Route 288 areas because they are vital to the future economic development of the county, indicating that it would have been unwise to adopt the ordinance until the Board had an idea of its impact on these two properties. He further stated he will support the ordinance amendments, although, like most mandates required by the state, it is not what he would do for Chesterfield County on his own volition.

Mr. Miller stated he believes this is a perfect example of bad legislation that is being mandated on localities. He further stated no one questions the desirability of making the Chesapeake Bay pollution-free, but he is very concerned about the rights of agricultural property owners who have streams running through their property. He stated he will reluctantly support the ordinance even though it is vague, has no discernible standards, and delegates too much authority.

On motion of Mr. Barber, seconded by Mr. Miller, the Board adopted the following ordinance:

AN ORDINANCE TO AMEND THE CODE OF THE COUNTY
OF CHESTERFIELD, 1997, AS AMENDED, BY AMENDING
AND RE-ENACTING SECTIONS 19-228, 19-229, 19-230, 19-231,
19-232, 19-233, 19-234, 19-235, 19-236, 19-241, 19-242
AND 19-301 RELATING TO THE CHESAPEAKE BAY
PRESERVATION PROVISIONS OF THE ZONING ORDINANCE

BE IT ORDAINED by the Board of Supervisors of Chesterfield County:

(1) That Sections 19-228, 19-229, 19-230, 19-231, 19-232, 19-233, 19-234, 19-235, 19-236, 19-241, 19-242 and 19-301 of the Code of the County of Chesterfield, 1997, as amended, are amended and re-enacted to read as follows:

DIVISION 4. CHESAPEAKE BAY PRESERVATION AREAS

Sec. 19-228. Resource protection area boundaries.

(a) At a minimum, resource protection areas shall consist of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may cause significant degradation to the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments, nutrients and potentially harmful or toxic substances in runoff entering the bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources.

(b) Resource protection areas shall consist of:

- (1) Tidal wetlands.
- (2) Nontidal wetlands connected by surface flow that are contiguous to (i) tidal wetlands or (ii) water bodies with perennial flow.
- (3) Tidal shores.

- (4) A vegetated RPA buffer area a minimum of 100 feet in width, located adjacent to and landward of the environmental features listed in subsections (1) through (3) above, and along both sides of any water body with perennial flow. The full RPA buffer area shall be designated as the landward component of the resource protection area.
- (5) Such other lands determined by the department of environmental engineering to meet the provisions of subsection (a) of this section and to be necessary to protect the quality of state waters.

(c) Designation of the components listed in subdivision (5) of subsection (b) shall not be subject to modification unless based on a reliable, site specific information as provided for in 9 VAC 10-20-105.

Sec. 19-229. Resource management area boundaries.

(a) Resource management areas shall include land types that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the resource protection area.

(b) A resource management area shall be provided contiguous to the entire inland boundary of the resource protection area. Resource management areas consist of one or more of the following:

- (1) One-hundred-year floodplains.
- (2) Highly erodible soils, including steep slopes.
- (3) Highly permeable soils.
- (4) Nontidal wetlands not included in resource protection areas.
- (5) Land areas a minimum of 100 feet in width that are located adjacent to and landward of every resource protection area.

Sec. 19-230. Chesapeake Bay preservation areas maps.

Chesapeake Bay preservation areas include resource protection areas and resource management areas. Subject to any adjustments by the director of environmental engineering pursuant to section 19-231, the boundaries of these areas are included as a map layer in the County's Geographic Information System (GIS) which is available for viewing in the department of environmental engineering. This GIS map layer shall serve as the general determination of the extent of the resource protection area boundary as defined in 9 VAC 10-20-80.

Sec. 19-231. Site-specific refinements of Chesapeake Bay Area boundaries and boundary adjustments.

(a) As part of, or prior to, the zoning application or plan review processes, or during the review of a water quality impact assessment pursuant to subsection 19-232(e), a

reliable, site-specific evaluation shall be conducted or approved by the county office of water quality to determine whether water bodies on or adjacent to the proposed development site have perennial flow. The Resource Protection Area boundaries for the site shall then be adjusted, as necessary, based on this evaluation. Upon the completion of a county wide map depicting streams with perennial flow, as identified utilizing a scientifically valid method approved by the Chesapeake Bay Local Assistance Board, the site-specific evaluations shall no longer be required.

(b) The director of environmental engineering may adjust the delineation of any resource protection area boundaries when an environmental site assessment prepared by a qualified expert indicates a need for change based on the environmental features listed in section 19-228(b)(1) through (4). The environmental site assessment shall be drawn to scale and shall clearly delineate such environmental features. Wetlands delineations shall be performed in accordance with the procedures specified in the most recently approved edition(s) of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

(c) The director of environmental engineering may adjust the delineation of any resource management area boundaries when an environmental site assessment prepared by a qualified expert indicates a need for such change based on the environmental features listed in section 19-229(b)(1) through (5). The environmental site assessment shall be drawn to scale and shall clearly delineate such environmental features. Wetlands delineations shall be performed in accordance with the procedures specified in the most recently approved edition(s) of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

(d) Any person aggrieved by the director of environmental engineering's decision concerning the boundaries of a resource protection area or a resource management area may appeal such decision in accordance with section 19-268(d).

(e) Boundary adjustments shall not be available to property that is undergoing redevelopment if, due to previous development of the property, the Chesapeake Bay preservation area features listed in section 19-228(b)(1) through (5) or section 19-229(b)(1) through (5) cannot be determined.

Sec. 19-232. Resource protection area regulations.

In addition to the general performance criteria set forth in section 19-233, the criteria in this section are applicable in resource protection areas.

(a) Land development may be allowed in a resource protection area, subject to the approval of the department of environmental engineering, only if it (i) is water dependent; (ii) constitutes redevelopment; (iii) is a permitted encroachment established pursuant to subdivision (d) of this section; (iv) is a road or driveway crossing satisfying the conditions set forth in subdivision (a)(4) of this section; or (v) is a flood control or stormwater management facility satisfying the conditions set forth in subdivision (a)(5) of this section.

- (1) A water quality impact assessment in accordance with section 19-232(e)(1) shall be required for any proposed land disturbance.
- (2) A new or expanded water-dependent facility may be permitted, provided that:
 - a. It does not conflict with the comprehensive plan;
 - b. It complies with the performance criteria set forth in sections 19-232(b) and 19-233;
 - c. Any nonwater-dependent component is located outside any resource protection area; and
 - d. Access shall be provided with minimum disturbance necessary. If possible, a single point of access shall be provided.
- (3) Redevelopment shall be permitted in the Resource Protection Area only if there is no increase in the amount of impervious cover and no further encroachment within the Resource Protection Area, and it shall conform to applicable erosion and sediment control and stormwater management criteria set forth in section 10-233, as well as all applicable stormwater management requirements of other state and federal agencies.
- (4) Roads and driveways not exempt under section 19-235 (a) (1) may be constructed in or across Resource Protection Areas only if each of the following conditions are met:
 - a. The department of environmental engineering makes a finding that there are no reasonable alternatives to aligning the road or driveway in or across the Resource Protection Area.
 - b. The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize the encroachment in the Resource Protection Area and adverse impacts on water quality.
 - c. The design and construction of the road or driveway satisfies all applicable criteria of this chapter, including submission of a water quality impact assessment.
 - d. The department of environmental engineering reviews the plan for the road or driveway proposed in or across the Resource Protection Area.
- (5) Flood control and stormwater management facilities that drain or treat water from

multiple development projects or from a significant portion of a watershed may be allowed in Resource Protection Areas, provided that (i) the department of environmental engineering has conclusively established that the location of the facility within the Resource Protection Area is the optimum location; (ii) the size of the facility is the minimum necessary to provide necessary flood control, stormwater treatment, or both; (iii) the facility must be consistent with the Watershed Management Plan for the Swift Creek Reservoir or any other stormwater management program that has been approved by the Chesapeake Bay Local Assistance Board as a Phase I modification to the county's Chesapeake Bay Preservation Act program; (iv) all applicable permits for construction in state or federal waters must be obtained from the appropriate state and federal agencies, such as the U. S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission; (v) approval must be received from the department of environmental engineering prior to construction; and (vi) routine maintenance is allowed to be performed on such facilities to assure that they continue to function as designed. It is not the intent to allow a best management practice that collects and treats runoff from only an individual lot or some portion of the lot to be located within a Resource Protection Area.

(b) *RPA buffer area requirements.* The 100-foot RPA buffer area shall be the landward component of the Resource Protection Area as set forth in subsection 19-228 (b) (4). Notwithstanding permitted uses and encroachments, as set forth in 19-232 (c) and (d), the 100-foot RPA buffer area shall not be reduced in width. To minimize the adverse effects of human activities on the other components of the Resource Protection Area, state waters, and aquatic life, a 100-foot wide RPA buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist. The following criteria shall apply to the 100-foot RPA buffer area.

- (1) The 100-foot wide RPA buffer area shall be deemed to achieve a 75% reduction of sediments and a 40% reduction of nutrients.
- (2) Where land uses such as agriculture or silviculture within the area of the RPA buffer area cease and the lands are proposed to be converted to other uses, the full 100-foot wide RPA buffer area shall be reestablished. In reestablishing the RPA buffer area, management measures shall be undertaken to provide woody vegetation that assures the RPA buffer area functions set forth in this chapter.

- (3) Existing vegetation in the RPA buffer area shall not be cleared or disturbed except (i) as provided in section 19-232(c) and (d) and (ii) with the prior approval of the water quality administrator.

(c) *Permitted modifications of the RPA buffer area.*

- (1) In order to maintain the RPA buffer area's functional value, existing vegetation may be removed, subject to the approval of the water quality administrator, only to provide for reasonable sight lines, access paths, general woodlot management and best management practices, including those that prevent upland erosion and concentrated flows of stormwater, as follows:
 - a. Trees may be pruned or removed if necessary to provide for sight lines and vistas. If trees are removed, they shall be replaced with other vegetation that, in the judgment of the water quality administrator, is equally effective in retarding runoff, preventing erosion and filtering nonpoint source pollution from runoff.
 - b. Any path shall be constructed and surfaced to effectively control erosion.
 - c. Dead, diseased or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu, and multiflora rose) may be removed and thinning of trees may be allowed, pursuant to sound horticultural practices.
 - d. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.
- (2) On agricultural lands, the RPA buffer area shall be managed to prevent concentrated flows of surface water from breaching the RPA buffer area and appropriate measures may be taken to prevent noxious weeds (such as Johnson grass, kudzu, and multiflora rose) from invading the RPA buffer area. Agricultural activities may encroach into the RPA buffer area only as follows:
 - a. Agricultural activities may encroach within the landward 50 feet of the 100-foot wide RPA buffer area when at least one agricultural best management practice which, in the opinion of the local soil and water conservation district board,

addresses the more predominant water quality issue on the adjacent land is being implemented on the adjacent land provided that the combination of the undisturbed RPA buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot RPA buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil tests, must be developed consistent with the Virginia Nutrient Training and Certification Regulations (4 VAC 5-15) administered by the Virginia Department of Conservation and Recreation.

- b. Agricultural activities may encroach within the landward 75 feet of the 100-foot wide RPA buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, approved by the James River soil and water conservation district, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance levels, referred to as "T," as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil tests, must be developed, consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15) administered by the Virginia Department of Conservation and Recreation. In conjunction with the remaining RPA buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the 100-foot RPA buffer area.
- c. The RPA buffer area is not required for drainage ditches associated with agricultural land if the adjacent agricultural land has in place at least one best management practice which, in the opinion of the James River soil and water conservation district, addresses the predominant water quality issues on the adjacent land.

(d) *Permitted encroachments into the RPA buffer area.*

- 1. When the application of the RPA buffer area would result in the loss of a buildable area

on a lot or parcel recorded prior to October 1, 1989, encroachments into the RPA buffer area may be allowed through an administrative process, in accordance with the following criteria:

- a. Encroachments into the RPA buffer area shall be the minimum necessary to achieve a buildable area for a principal structure and necessary utilities.
 - b. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the RPA buffer area encroachment, and is equal to the area of encroachment into the RPA buffer area shall be established elsewhere on the lot or parcel.
 - c. The encroachment may not extend into the seaward 50 feet of the RPA buffer area.
 - d. A written request for an exception to this division's requirements shall be made to the director of environmental engineering. It shall identify the impact of the proposed exception on water quality, on public safety and on lands within the resource protection area through the completion of a water quality impact assessment that complies with section 19-232 (e).
2. When the application of the RPA buffer area would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989 and March 1, 2002, encroachments into the RPA buffer area may be allowed through an administrative process in accordance with the following criteria:
- a. The lot or parcel was created as a result of a legal process conducted in conformity with the county's subdivision ordinance;
 - b. Conditions or mitigation measures imposed through a previously approved exception shall be met;
 - c. If the use of a best management practice (BMP) was previously required, the BMP shall be evaluated to determine if it continues to function effectively and, if necessary, the BMP shall be reestablished or repaired and maintained as required;
 - d. The requirements of section 19-232(d)(1) shall be met.
3. When the application of the RPA buffer area would result in the loss of a buildable area on a lot or parcel created as the result of

bankruptcy, condemnation or threat of condemnation, judicial partition or judicial action relating to a decedent's estate, encroachments into the RPA buffer area may be allowed through an administrative process in accordance with the requirements of 19-232(d)(2)(b), (c) and (d).

(e) Water quality impact assessments and resource protection area restoration plans.

- (1) A water quality impact assessment shall be submitted to, and approved by, the water quality administrator for any proposed development within a resource protection area, including any RPA buffer area modification or encroachment authorized as provided by section 19-232(d), and may be required by the director of environmental engineering for any other development in Chesapeake Bay preservation areas based on the site's unique characteristics or the intensity of the proposed use or development. The purpose of the water quality impact assessment is to identify and, where applicable, quantify the impacts of proposed development on water quality and lands in the Resource Protection Areas consistent with the goals and objectives of the Chesapeake Bay Preservation Act, this chapter, and to identify specific measures for the mitigation of those impacts. There shall be two types of water quality impact assessments: a minor assessment and a major assessment.

- a. *Minor water quality impact assessment.* A minor water quality impact assessment shall be required for development or redevelopment which involves 2,500 square feet or less of land disturbance. The minor water quality assessment must demonstrate that the combination of undisturbed RPA buffer area, restoration plantings and identified best management practices or measures will be effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff. The minor water quality impact assessment shall include a site drawing, to scale if practicable, which shows the following:

- (i) The location of the resource protection area;
- (ii) The location, nature and quantification of proposed encroachments into the resource protection area, including type of material proposed to be used for access paths, areas of clearing or grading, location of any structures, drives or other impervious surfaces;

- (iii) Justification for the proposed encroachment;
 - (iv) Type and proposed location of any best management practice facilities or measures;
 - (v) Existing and proposed runoff outfalls from the property;
 - (vi) Location and density of existing vegetation on site, including the number and type of trees and other vegetation to be removed in the RPA buffer area as a result of the encroachment or modification; and
 - (vii) A restoration plan that includes the replacement of vegetation that has been removed from the RPA buffer area. The type, quantity and density of vegetation shall be capable of retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.
- b. *Major water quality impact assessment.* A major water quality impact assessment shall be required for a development which exceeds 2,500 square feet of land disturbance. The major water quality impact assessment shall be prepared by a qualified expert and shall include:
- (i) All information required for a minor water quality impact assessment;
 - (ii) A description of the proposed encroachment including:
 - 1. A description of the proposed improvements, including structures (including the type and size), roads, access paths, irrigations systems, lighting systems, and utilities;
 - 2. If an access path is proposed, an identification of the location of the path and the materials that will be used for the path.
 - (iii) A description of the encroachment site's physical characteristics including:
 - 1. The site's existing topography, soil characteristics, erosion potential and hydrology;

2. A description of wetland areas including their functions and values;
 3. A description of streams and other water bodies;
 4. Location and density of existing vegetation on site, including the number and type of trees and other vegetation categorized by type (e.g. shrubs, trees, groundcover) within 50 feet of the proposed land disturbance.
- (iv) A discussion of the potential water quality impacts of the proposed encroachment, including:
1. A quantification of any identified impacts on streams or other water bodies, including potential erosion and sedimentation that could enter those waters as a result of the encroachment;
 2. An identification and quantification of any impacts on wetlands, including impacts on wetland hydrology;
 3. An identification of temporary or permanent impacts to streams or other water bodies;
 4. An identification of any areas to be disturbed outside the resource protection area that have the potential to adversely affect the resource protection area;
 5. The limits of clearing, grading and the percent of the site to be cleared;
 6. Where applicable, an estimation of the pre-construction and post-construction pollutant loads;
 7. Estimation of the percent increase in impervious cover;
 8. A discussion of the number and type of trees and other vegetation to be removed in the RPA buffer area as a result of the encroachment or modification;

9. A discussion of proposed changes to the site topography and hydrology and the impacts of those changes on water quality;
 10. A construction schedule, including the anticipated duration of construction.
- (v) A discussion of measures to mitigate the identified impacts, including:
1. A Restoration Plan that includes the replacement of vegetation that has been removed from the RPA buffer area. The Plan shall include the schedule for replanting, which shall take into account the appropriate season for replanting. The type, quantity and density of vegetation specified shall be capable of retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff. The vegetation specified plantings shall, to the maximum extent practicable, consist of native species.
 2. A listing of proposed erosion and sediment control measures, including additional measures that are beyond those required in chapter 8 of the Code of Chesterfield County;
 3. A listing of best management practices and measures to reduce impacts on water quality;
 4. A discussion that demonstrates, in a quantifiable manner, that the combination of revegetation and best management practices will achieve pollutant removal that is equivalent to that which is achieved without the encroachment.
 5. A listing of other mitigation measures that may be required by the director of environmental engineering or the water quality administrator.

(f) When a person has violated the requirements of this subsection, the violator shall submit a resource protection area restoration plan to the water quality administrator for review and approval. The intent of the restoration plan is to ensure that the resource protection area function are

restored in a manner that will achieve the pollutant removal requirements as defined in 19-232(b)(1). The restoration plan shall specify the types and number of vegetation to be planted and a schedule for the installation of the plantings. When determined to be necessary by the water quality administrator, the violator shall provide surety in an amount sufficient, as determined by the water quality administrator, to purchase and reinstall any vegetation required by the restoration plan that has not survived for one year from date of installation. The surety must be in a form approved by the county attorney's office and may consist of a certified check, cash escrow, a surety bond, or a letter of credit from a financial institution.

Sec. 19-233. General performance criteria.

Any use, development or redevelopment of land within a Chesapeake Bay Preservation Area shall meet the following performance criteria:

- (a) No more land shall be disturbed than is necessary to provide for the proposed use or development.
- (b) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development allowed.
- (c) Land development shall minimize impervious cover consistent with the use or development allowed.
- (d) All development exceeding 2,500 square feet of land disturbance shall be subject to the site plan or subdivision review processes.
- (e) Any land disturbing activity that exceeds an area of 2,500 square feet (including construction of all single family houses, septic tanks and drainfields, but other wise as defined in § 10.1-560 of the Code of Virginia) shall comply with the requirements of the local erosion and sediment control ordinance.
- (f) Stormwater management criteria consistent with the water quality protection provisions (4 VAC 3-20-71 et. seq.) of the Virginia Stormwater Management Regulations (4 VAC 3-20) shall be satisfied.
 - (1) The following stormwater management options shall be considered to comply with the requirements of this subsection:
 - a. Incorporation on the site of best management practices that meet the water quality protection requirements set forth in this subsection. For the purposes of this subsection, the "site" may include multiple projects or properties that are adjacent to one another or lie within the same drainage area where a single best management practice will be utilized by those projects to satisfy water quality protection requirements;
 - b. Compliance with the Watershed Management Plan for the Swift Creek Reservoir which

has been found by the Chesapeake Bay Local Assistance Board to achieve water quality protection equivalent to that required by this subsection;

c. Compliance with a site-specific VPDES permit issued by the Department of Environmental Quality, provided the department of environmental engineering specifically determines that the permit requires measures that collectively achieve water quality protection equivalent to that required by this subsection.

(2) Any maintenance, alteration, use or improvement to an existing structure that does not degrade the quality of surface water discharge, as determined by the director of environmental engineering, may be exempted from the requirements of this subsection. Any person aggrieved by a decision of the director of environmental engineering under this subsection may appeal such decision in accordance with the procedures provided in section 19-268(d).

(3) Stormwater management criteria for redevelopment shall apply to any redevelopment.

(g) Where the best management practices utilized in a commercial development require regular or periodic maintenance in order to continue their functions, such maintenance shall be ensured by a maintenance/easement agreement, commercial surety bond, bank letter of credit or other assurance satisfactory to the director of environmental engineering. Where the best management practices utilized for a residential development require regular or periodic maintenance in order to continue their functions, such maintenance shall be ensured by a commercial surety bond, bank letter of credit or cash escrow in an amount equal to \$100.00 for each dwelling unit in a residential development. The requirement excludes apartment developments outside the Swift Creek Reservoir Watershed. The form of any bond or letter of credit provided pursuant to this section shall be subject to approval by the county attorney.

(h) Land on which agricultural activities are being conducted, including but not limited to crop production, pasture, and dairy and feedlot operations, shall have a soil and water quality conservation assessment conducted that evaluates the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of pesticides and, where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is being accomplished consistent with the Chesapeake Bay Preservation Act and this

division. RMA performance criteria shall not apply to land used for agricultural purposes.

- (i) The director of environmental engineering may authorize the developer to use a retention or detention basin or alternative best management practice facility to achieve the performance criteria set forth in this chapter.
- (j) The department of environmental engineering shall require evidence of all wetlands permits required by law prior to authorizing grading or other on-site activities.

Sec. 19-234. Exemptions in resource protection areas.

(a) The following land disturbances in resource protection areas may be exempt from the criteria of section 19-232 provided that, in the judgment of the director of environmental engineering, they comply with subdivisions 1 through 4 below: (i) water wells; (ii) passive recreation facilities such as boardwalks, trails and pathways; and (iii) historic preservation and archaeological activities.

- (1) Any required permits, except those to which this exemption specifically applies, shall have been issued;
- (2) Sufficient and reasonable proof is submitted that the intended use shall not result in an adverse impact on water quality;
- (3) The intended use does not conflict with nearby planned or approved uses; and
- (4) Any land disturbance exceeding an area of 2,500 square feet shall comply with all erosion and sediment control requirements of chapter 8 and the Code of Chesterfield County.

(b) Silvicultural activities in Chesapeake Bay Preservation Areas shall be exempt from this division's requirements, provided that such activities adhere to water quality protection procedures prescribed by the department of forestry in its "Best Management Practices Handbook for Forestry Operations," as amended. The Virginia Department of Forestry will oversee and document installation of best management practices and will monitor in-stream impacts of forestry operations in Chesapeake Bay Preservation Areas. This exemption shall not apply to land disturbing activities on land in an agriculturally zoned district which is not used directly for the management of agricultural crops, forest crops and livestock, or land which has been rezoned or converted, or proposed to be rezoned or converted, at the request of the owner or previous owner, from an agricultural to a residentially, commercially or industrially zoned district or use.

(c) Nonresidential uses which are located over 100 feet from and are not adjacent to R, R-MF or R-TH Districts or any property used for residential purposes, schools, child care centers, playgrounds, shopping centers, libraries, hospitals, public institutions or similar facilities shall be exempt from the provisions of sections 19-241.

Sec. 19-235. Exemptions and exceptions.

(a) Public utilities, railroads, public roads, and facilities exemptions.

(1) Construction, installation, operation and maintenance of electric, natural gas, fiber-optic and telephone transmission lines, railroads and public roads and their appurtenant structures in accordance with (i) the Erosion and Sediment Control Law (Va. Code §10.1-560 et seq.), and the Stormwater Management Act (Va. Code § 10.1-603.1 et seq.), or (ii) an erosion and sediment control plan and stormwater management plan approved by the Virginia Department of Conservation and Recreation. The exemption of public roads is further conditioned as follows: optimization of the road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize encroachment in the Resource Protection Area and adverse impacts on water quality.

(2) Construction, installation and maintenance of water, sewer, natural gas, and underground telecommunications and cable television lines owned, permitted, or both, by the county or a regional service authority shall be exempt from this division's requirements, provided that:

- a. To the degree possible, the location of such utilities and facilities should be outside resource protection areas.
- b. No more land than necessary shall be disturbed to provide for the proposed utility installation.
- c. All construction, installation and maintenance of such utilities and facilities shall be in compliance with any applicable federal, state and local requirements and permits and designed and conducted in a manner that protects water quality.
- d. Any land disturbance exceeding an area of 2,500 square feet shall comply with all erosion and sediment control requirements of chapter 8 and this division.

(b) Exceptions.

(1) Exceptions to the requirements of sections 19-232 and 19-233 may be granted, subject to the procedures set forth in 19-235(b)(2), provided that a finding is made that:

- a. The requested exception is the minimum necessary to afford relief.

- b. Granting the exception shall not confer any special privileges upon the applicant that are denied by this division to other property owners who are subject to its provisions and who are similarly situated.
- c. The exception is in harmony with the purpose and intent of this division and will not result in a substantial detriment to water quality.
- d. The exception request is not based on conditions or circumstances that are self-created or self-imposed.
- e. Reasonable and appropriate conditions are imposed, as warranted, that will ensure that the permitted activity will not cause a degradation of water quality.
- f. The request is being made because of the particular physical surroundings, use, shape or topographical conditions of the specific property involved or property adjacent to or within 100 feet of the subject property, or a particular hardship to the owner will occur, as distinguished from a mere inconvenience, if the strict letter of this division is carried out.

(2) Exception process.

- a. Exceptions to requirements of section 19-232.
 - 1. A request for an exception to the requirements of section 19-232, except for an encroachment permitted under 19-232(d), shall be made in writing to the planning department for action by the board of supervisors. It shall identify the impact of the proposed exception on water quality, on public safety and on lands within the resource protection area through development of a water quality impact assessment which complies with section 19-232 (e). Exception requests seeking relief from the best management practice facility safety measures and design criteria required in sections 19-241 and 19-242 shall not require the completion of a water quality impact assessment if the request is supported by documentation which demonstrates that the request will not be detrimental to public safety and welfare.

2. The planning department shall notify the affected public of any such exception requests and the board of supervisors shall consider these requests during a public hearing in accordance with Va. Code § 15.2-2204, except that only one hearing shall be required.
 3. The board of supervisors shall review the request for an exception and the water quality impact assessment and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of this division only if the board makes the findings set forth in section 19-235(b)(1).
 4. If the board of supervisors cannot make the required findings or refuses to grant the exception, it shall return the request for an exception together with the water quality impact assessment and the written findings and rationale for the decision to the applicant.
- b. Exceptions to the requirements of section 19-233. Upon written request, the director of environmental engineering may approve exceptions to the requirements of section 19-233 when the director finds that the criteria of section 19-235(b)(1) have been satisfied.

Sec. 19-236. Non-conforming uses, vested rights and other exceptions.

- (1) In addition to the requirements of this chapter, no use which is nonconforming to the requirements of this division, in a Chesapeake Bay preservation area, shall be enlarged, extended, reconstructed, substituted or structurally altered unless the director of environmental engineering grants an exception pursuant to section 19-235, and also finds that:
 - a. There will be no net increase in the nonpoint source pollution load; and
 - b. Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of chapter 8 and division 4 of article IV of this chapter.
- (2) This division shall not be construed to prevent the reconstruction of pre-existing structures within Chesapeake Bay Preservation Areas from occurring as a result of casualty loss unless otherwise restricted by applicable ordinance.
- (3) The provisions of this division shall not affect the vested rights of any landowner under existing law.

- (4) The provisions of this division shall not be construed to require or allow the taking of private property for public use without just compensation.

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Sec. 19-241. Design criteria for all basins.

All basins required by the director of environmental engineering as either a stormwater management facility or a Best Management Practice for water quality improvement or designed as a retention or detention facility for any new development or redevelopment of property shall conform to the following criteria:

(1) *Safety criteria.*

a. Outflow device safety measures.

1. If a vertical sided weir box is located within the basin's embankment, a six-foot fence or dense vegetative barrier, or a combination thereof, shall be installed as prescribed by the director of environmental engineering. If a dense vegetative barrier is used, it shall be designed and installed in accordance with professionally accepted landscaping practices and procedures. The director of environmental engineering shall approve plans for the vegetative barrier, including the size and description of proposed plant materials. The dense vegetative barrier shall be a minimum of six feet in width. If a fence or vegetative barrier is to be established around the entire basin facility in accordance with subsection (1)(b), then no barrier or fence is required around the weir box. If a developer uses a concrete weir for either the principal or emergency spillway and the concrete weir is greater than three feet in depth, a pedestrian crossing or access structure shall be established across the weir. A fence or vegetative barrier, or combination thereof, may be substituted if the pedestrian crossing is not practicable.

b. Basin safety measures and dimensions.

1. The following safety measures shall be required for that portion of each basin that has a side slope above the normal water surface that is steeper than 6:1 over a horizontal distance of 20 feet or more.

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4. If a fence is used, the minimum height of the fence shall be six feet. The fence may be made of a dense vegetative barrier. If the fence is made of a

vegetative barrier, it shall be designed and installed in accordance with professionally accepted landscaping practices and procedures. The director of environmental engineering shall approve plans for the vegetative barrier, including the size and description of proposed plant materials. If a vegetative barrier is used, the property owner or developer shall provide to the county a form of surety for the cost of materials and installation for the proposed plant materials. Provisions for maintenance of and access to the fence or vegetative barrier shall be included in the best management practice easement dedication.

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6. Side slopes. The side slopes above the normal water surface elevation in basins shall be no steeper than 3:1 (horizontal to vertical). If the excavation of the slope to 3:1 will result in the removal of dense vegetation or woodland that is acting to stabilize the slope, the developer may seek an exception from the director of environmental engineering pursuant to the provisions of section 19-235 to leave the slope in its existing condition.

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Sec. 19-242. Minimum criteria for basins serving as a best management practice for water quality improvement.

(a) *Depth.* Basins sized solely as best management practice facilities in conformance with the Chesapeake Bay Preservation Act shall have a range in depth of three to eight feet to prevent stratification. For those basins which have been designed with sections which exceed eight feet in depth, only those portions which are less than eight feet in depth shall be included as part of the best management practice facility volume. Basins that are less than one acre in surface area shall not exceed eight feet in depth.

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Sec. 19-301. Definitions.

Conservation area: An area of natural or established vegetation managed to protect other components of a resource protection area and state waters from significant degradation due to land disturbances. Referred to as an "RPA buffer area" in Division 4 of this chapter.

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Nontidal wetlands: Those wetlands other than tidal wetlands "that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a

prevalence of vegetation typically adapted for life in saturated soil conditions", as defined by the U.S. Environmental Protection Agency pursuant to section 404 of the federal Clean Water Act in 33 CFR 328.3b.

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Resource protection area: That component of the Chesapeake Bay preservation area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts that may result in significant degradation to the quality of state waters.

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RPA buffer area: See "conservation area."

Silvicultural activities: Forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to Va. Code § 10.1-1105 and are located on property defined as real estate devoted to forest use under Va. Code § 58.1-3230.

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Tidal wetlands: Vegetated and nonvegetated wetlands as defined in Va. Code § 28.2-1300.

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Water Body with Perennial Flow: A body of water that flows in a natural or man-made channel year-round during a year of normal precipitation. This includes, but is not limited to streams, estuaries, and tidal embayments and may include drainage ditches or channels constructed in wetlands or from former natural drainage ways, which convey perennial flow. Lakes and ponds, through which a perennial stream flows, are a part of the perennial stream. Generally, the water table is located above the streambed for most of the year and groundwater is the primary sources for stream flow.

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Water-dependent facility: A development of land that cannot exist outside of a resource protection area and must be located on the shoreline because of the intrinsic nature of its operation. These facilities include, but are not limited to:

- (1) Ports.
- (2) The intake and outfall structures of power plants, water treatment plants, sewage treatment plants and storm sewers.
- (3) Marinas and other boat docking structures.
- (4) Natural beaches and other water-oriented recreation areas.

(5) Fisheries or other marine resources facilities.

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(2) That this ordinance shall become effective immediately upon adoption.

Ayes: Miller, Barber, Humphrey and Warren.

Nays: None.

Abstain: King.

**16.B. TO CONSIDER ADOPTION OF A RESIDENTIAL CONNECTIVITY
POLICY TO ESTABLISH STANDARDS FOR ACCESS TO AND
BETWEEN SUBDIVISIONS**

Mr. Turner presented a brief overview of the proposed residential connectivity policy. He stated staff has met with the development community regarding the policy. He further stated the Planning Commission recommended adoption of the policy on a four to one vote. He stated, in an effort to address the Board's concerns that provisions should be made to allow exceptions under specified circumstances, staff was unable to develop quantifiable criteria, which could be consistently applied in all circumstances to guide when such connections should not be made; therefore, staff has amended the policy to allow the Board and Planning Commission the authority to waive such connections at their discretion and to emphasize their action by requiring such waivers to be granted only by separate motion from any other approval such as zoning or subdivision. He further stated the policy does not eliminate cul-de-sacs.

In response to Mr. King's question, Mr. Turner stated developers will be required to post a sign to indicate that a stub road exists and that future extension is possible.

Mr. Miller called for public comment.

Mr. David Root, representing the Richmond Homebuilders Association, stated he supports the policy.

On motion of Mr. King, seconded by Mrs. Humphrey, the Board adopted the Residential Connectivity Policy. (It is noted a copy of the policy is filed with the papers of this Board.)

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

17. REMAINING MOBILE HOME PERMITS AND ZONING REQUESTS

There were no remaining mobile home permits or zoning requests at this time.

18. ADJOURNMENT

On motion of Mr. Barber, seconded by Mr. King, the Board adjourned at 9:28 p.m. until December 1, 2004 at 5:30 p.m. for a meeting in Room 502 of the Administration Building

with the School Board and the county's Legislative
Delegation.

Ayes: Miller, Barber, Humphrey, King and Warren.

Nays: None.

Lane B. Ramsey
County Administrator

Kelly E. Miller
Chairman